

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF TEXAS

3 CASE NO. 3:17-cv-02278-X
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5 -----x
6 CHARLENE CARTER,

7 Plaintiff,

8 v.

9 SOUTHWEST AIRLINES CO. and
10 TRANSPORT WORKERS OF AMERICA,
LOCAL 566,

11 Defendants.
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13 -----x
14
15
16 TRANSCRIPT OF THE TRIAL
17 BEFORE THE HONORABLE BRANTLEY STARR
18 UNITED STATES DISTRICT JUDGE
19

20 V O L U M E 2
21

22 Dallas, Texas

23 July 6, 2022

24 8:38 a.m.
25

<p style="text-align: right;">Page 205</p> <p>1 A P P E A R A N C E S:</p> <p>2</p> <p>3 FOR THE PLAINTIFFS:</p> <p>4 NATIONAL RIGHT TO WORK FOUNDATION INC.</p> <p>5 8001 Braddock Street</p> <p>6 Suite 600</p> <p>7 Springfield, Virginia 22160</p> <p>8 BY: MATTHEW B. GILLIAM, ESQ.</p> <p>9 mgb@nrtw.org</p> <p>10</p> <p>11 PRYOR & BRUCE</p> <p>12 302 North San Jacinto</p> <p>13 Rockwall, Texas 75087</p> <p>14 BY: BOBBY G. PRYOR, ESQ.</p> <p>15 MATTHEW D. HILL, ESQ.</p> <p>16 bpryor@pryorandbruce.com</p> <p>17 mhill@pryorandbruce.com</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 206</p> <p>1 For the Defendant Union 566:</p> <p>2</p> <p>3 CLOUTMAN & GREENFIELD, PLLC</p> <p>4 3301 Elm Street</p> <p>5 Dallas, TX 75226</p> <p>6 BY: ADAM S. GREENFIELD, ESQ.</p> <p>7 EDWARD B. CLOUTMAN, III, ESQ.</p> <p>8 agreenfield@candglegal.com</p> <p>9 crawfish11@prodigy.net</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 207</p> <p>1 COURT REPORTER: MS. KELLI ANN WILLIS, RPR, CRR, CSR</p> <p>2 United States Court Reporter</p> <p>3 1100 Commerce Street</p> <p>4 Room 1528</p> <p>5 Dallas, Texas 75242</p> <p>6 livenotecrr@gmail.com</p> <p>7</p> <p>8 Proceedings reported by mechanical</p> <p>9 stenography and transcript produced by computer.</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 208</p> <p>1 I N D E X</p> <p>2</p> <p>3 Jury sworn 241</p> <p>4 Stipulations 247</p> <p>5</p> <p>6 Opening Statement by Mr. Pryor 249</p> <p>7 Opening Statement by Mr. McKeeby 279</p> <p>8 Opening Statement by Mr. Greenfield 300</p> <p>9</p> <p>10</p> <p>11</p> <p>12 W I T N E S S E S</p> <p>13 AUDREY STONE</p> <p>14 Direct Examination by Mr. Pryor 309</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p style="text-align: right;">Page 209</p> <p>1</p> <p>2 EXHIBITS</p> <p>3</p> <p>4 Plaintiff's Exhibit 6 314</p> <p>5 Plaintiff's Exhibit 24 319</p> <p>6 Plaintiff's Exhibit 146 328</p> <p>7 Plaintiff's Exhibit 25 342</p> <p>8 Plaintiff's Exhibit 26 354</p> <p>9 Plaintiff's Exhibit 27 360</p> <p>10 Plaintiff's Exhibit 140 401</p> <p>11 Plaintiff's Exhibit 141 406</p> <p>12 Plaintiff's Exhibit 29 423</p> <p>13 Plaintiff's Exhibit 30 433</p> <p>14 Plaintiff's Exhibit 23 449</p> <p>15 Plaintiff's Exhibit 52 453</p> <p>16 Plaintiff's Exhibit 56 463</p> <p>17 Plaintiff's Exhibit 19 481</p> <p>18 Plaintiff's Exhibit 66 489</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 210</p> <p>1 -- PROCEEDINGS --</p> <p>2 - o -</p> <p>3 THE COURT SECURITY OFFICER: All rise.</p> <p>4 THE COURT: You can be seated.</p> <p>5 Okay. We are on Day 2 of trial, Day 1 of</p> <p>6 evidence, and 3:17-cv-2278. That's Carter versus</p> <p>7 Transport Workers Union Local 556 and Southwest.</p> <p>8 Let's do appearances. First for Carter.</p> <p>9 MR. GILLIAM: Matthew Gilliam for</p> <p>10 Plaintiff Charlene Carter, along with Matt Hill and</p> <p>11 Bobby Pryor.</p> <p>12 THE COURT: Thank you.</p> <p>13 And for Southwest?</p> <p>14 MR. McKEEBY: Paulo McKeeby for Defendant</p> <p>15 Southwest, and Brian Morris is going through</p> <p>16 security, or was a moment ago.</p> <p>17 THE COURT: We all are at some point. So</p> <p>18 I'm sorry, double security. I tried to warn the</p> <p>19 jury, right? Double security is an unwelcome thing</p> <p>20 to wake up to.</p> <p>21 Okay. And then for the Union.</p> <p>22 MR. GREENFIELD: Adam Greenfield on behalf</p> <p>23 of the Union, with Ed Cloutman, III.</p> <p>24 And we have a new face here. This is</p> <p>25 Michael Masoni, our corporate representative.</p>
<p style="text-align: right;">Page 211</p> <p>1 THE COURT: Great to meet you. Thanks for</p> <p>2 being here.</p> <p>3 MR. GILLIAM: Your Honor, I'm sorry.</p> <p>4 Ms. Meggan Jones is our corporate representative,</p> <p>5 who is also here.</p> <p>6 THE COURT: Ms. Jones, thank you for being</p> <p>7 here.</p> <p>8 MR. GILLIAM: For Plaintiff, I should</p> <p>9 probably say Charlene Carter is with us here.</p> <p>10 THE COURT: She's here in the front row.</p> <p>11 Thank you, Ms. Carter.</p> <p>12 So let me say first off, we are trying to</p> <p>13 push out the Talburt and Parker rulings on depo</p> <p>14 designations right now.</p> <p>15 I know that is not what y'all expected</p> <p>16 timeline-wise, and I apologize for the delay on my</p> <p>17 end.</p> <p>18 So I'm not sure what that does to the mix</p> <p>19 of things, but as soon as we give you those rulings,</p> <p>20 then y'all do what you need to do.</p> <p>21 MR. HILL: I can adjust pretty much on the</p> <p>22 fly.</p> <p>23 THE COURT: Okay. Well, I appreciate</p> <p>24 that.</p> <p>25 That is very kind of you to accommodate my</p>	<p style="text-align: right;">Page 212</p> <p>1 delay. So thank you for your patience. I</p> <p>2 appreciate that.</p> <p>3 So we will get those out to you here this</p> <p>4 morning as soon as we can. We are finishing those</p> <p>5 up and pushing them out on the docket.</p> <p>6 Okay. So I have the -- I have the</p> <p>7 explanation of last night from 6:30 and from 8:30.</p> <p>8 So I have gone through those, and I figured we</p> <p>9 should just talk through them at the top.</p> <p>10 So what I wanted to do is maybe pick up</p> <p>11 with Exhibit No. 15.</p> <p>12 I will just say this. I think Mr. Frye</p> <p>13 was going to email y'all and see if we could get an</p> <p>14 updated exhibit list. I know there were some</p> <p>15 exhibits that were added to the mix that we got over</p> <p>16 email. I don't know that we have an updated exhibit</p> <p>17 list itself.</p> <p>18 And so I don't know if one party is</p> <p>19 keeping the list, but if we could get an updated</p> <p>20 list on the docket and then one in Word form, that</p> <p>21 would help, because once we start admitting</p> <p>22 exhibits, I'm going to be the keeper of the Word</p> <p>23 document, and then I log in what date it was</p> <p>24 admitted into evidence, what witness it came in</p> <p>25 with.</p>

<p style="text-align: right;">Page 213</p> <p>1 And so I will take your Word document, add 2 a few columns, and then start keeping tabs of it on 3 the bench. 4 So if whoever has the pen on the exhibit 5 list could get me an updated copy, that would be 6 great. 7 MR. McKEEBY: We will. 8 THE COURT: Great. Thank you very much. 9 Okay. So I have Exhibit 15 as the first 10 one with objections to talk about. 11 I think that Southwest was the first to 12 get their objections in, so I will go through the 13 ones y'all did first. But any time we are on an 14 exhibit, I will talk about everyone's objections to 15 that exhibit. All right? 16 And then once we finish Southwest, we will 17 come back to the ones that the Union had unique 18 objections to. 19 So I guess Exhibit 15 is the first one 20 that we had objections to. And I think -- well, 21 that's -- sorry. That was Union only. 22 The first one that Southwest and the Union 23 had objections to is 21, I think 21 and 22. 24 So this is emails regarding the recall 25 campaign. And Southwest was making relevance, undue</p>	<p style="text-align: right;">Page 214</p> <p>1 prejudice, jury confusion objections. 2 Union was making similar objections. 3 I guess this also gets to the point of 4 similarly-situated or non-similarly situated 5 employees, a limine issue that I addressed 6 previously. 7 So let me ask Southwest or Union, whoever 8 wants to go first, if you want to talk about your 9 objection. I have read that objection, I have read 10 the response that Carter had from the status report. 11 So if there is anything you want to add on 12 21, let me have at it. 13 MR. McKEEBY: Nothing to add specifically 14 to 21. I think they are going to be the same 15 argument for most of these exhibits from Southwest's 16 perspective, is that the Court ruled that the fact 17 that the Union or Union leadership reported 18 employees could be admissible as to the duty of fair 19 representation claim. 20 But the ultimate resolution of those 21 complaints, how Southwest may or may not have 22 disciplined particular employees, was outside the 23 scope of relevant discovery, would result in 24 prejudice, and require us to have to marshal 25 evidence about people who weren't parties to this</p>
<p style="text-align: right;">Page 215</p> <p>1 case, former employees or employees, and that was 2 the holding on the motion in limine. 3 So, again, as long as this type of 4 evidence is limited to the claims against the Union, 5 that is fine. 6 There should be a limiting instruction, 7 though, when the evidence does come in, that limits 8 the relevance, or the jury's consideration, rather, 9 of the evidence to those claims so that they are not 10 asking, Okay, well, what happened to this guy, Greg 11 Hover, who got turned in, and why wasn't he -- why 12 aren't we hearing about whether or not he was fired 13 or not? 14 That's what I want to avoid. That was the 15 design of the motion in limine, or the purpose of 16 the motion in limine. 17 THE COURT: Understood. 18 Anything for the Union to add to that? 19 MR. GREENFIELD: It's just a very similar 20 line of argument. 21 If we look at Exhibit 21, and we can look 22 at page 6, is where there is a list of individuals. 23 To start, we have a Gina Jackson, Beverly 24 Belanger, Miche Foley, Ms. Carter, a Mr. HofeHover, 25 Ms. Kearney, Mr. Rivera. It goes on. And there are</p>	<p style="text-align: right;">Page 216</p> <p>1 additional witnesses or additional individuals that 2 will come up in the same respect. 3 Just to echo what Mr. McKeeby was saying, 4 it puts us in a position to try and explain all of 5 these things to the jury and it really creates a 6 trial within a trial on all of these different 7 individuals. 8 THE COURT: I understand. 9 I guess my question is how similar is it? 10 Because, obviously, from the limine rulings that 11 Mr. McKeeby pointed out, there are things in the ZIP 12 code that I think are fine as to the Union, right, 13 and the duty of fair representation claim. That is 14 not to say that the whole universe is fine. 15 So the question is, where do you draw the 16 line? 17 Can I hear your argument, Mr. Gilliam, on, 18 is this close enough as to where it comes as to for 19 the Union? 20 MR. GILLIAM: Yes. I think they all come 21 in as to the Union on both the duty of fair 22 representation claim and the RLA retaliation claim 23 against the Union. 24 I think they are all covered by the 25 Court's prior rulings on the motion in limine.</p>

<p style="text-align: right;">Page 217</p> <p>1 THE COURT: Well, that was my view as 2 well. 3 So what I'm trying to do is make sure that 4 I keep tabs on exhibits that come in really Union 5 only, right? And so to make sure I give the 6 limiting instruction on those. 7 So I'm going to make a note of these as we 8 talk about them. We may not get to cover all of 9 these before the jury gets here. 10 So if there are others that are in this 11 bucket that are basically union-only exhibits, if 12 you could just ask for a sidebar, flag that for me, 13 or just say "limiting instruction, your Honor," then 14 that will flag for me that this is the Union-only 15 bucket. It is not applicable to Southwest. 16 MR. GILLIAM: Your Honor, I will say there 17 are some communications where Brian Talburt -- they 18 had some communications with Southwest senior V.P. 19 Sonya Lacore and forwarded that to Ms. Stone. 20 And they are relevant in two respects. 21 Not only are they relevant to Ms. Stone 22 and her knowledge of what Brian Talburt was doing 23 and his activities, but they are also relevant not 24 for Southwest's discipline of Mr. Talburt, but they 25 are relevant for Southwest's knowledge and awareness</p>	<p style="text-align: right;">Page 218</p> <p>1 of what Mr. Talburt was doing and saying. 2 THE COURT: Which exhibit are we talking 3 about? 4 MR. GILLIAM: I think specifically this 5 may be 141. 6 THE COURT: Okay. 7 MR. GREENFIELD: Your Honor, while we're 8 pulling that up, if I may, I think the issue with 9 Brian Talburt in some of these initial documents 10 that we are looking at right now is that it does get 11 to -- it starts to get very attenuated. 12 We are talking about, they are trying to 13 make an argument binding the Union because of the 14 actions of an executive board member. 15 Mr. Talburt was not -- he was not an agent 16 of the Union, he's just a rank-and-file member of 17 the Union. 18 So they are trying to -- which leads into 19 our 403 argument about it being confusing to the 20 jury about what actually can and cannot bind the 21 Union. One may be able to, and one absolutely 22 cannot. 23 THE COURT: Sure. 24 Well, I don't know that that means it 25 doesn't come in. I think it is a great</p>
<p style="text-align: right;">Page 219</p> <p>1 cross-examination point. 2 MR. GREENFIELD: Thank you. 3 MR. GILLIAM: I can address that as well, 4 your Honor. 5 We've cited case law in our response to 6 the Union's motion in limine, and we believe that 7 the theory that applies here is one that was 8 established under a case called Communication 9 Workers. It's a National Labor Relations Board 10 case. 11 THE COURT: Well, I think it already comes 12 in. So we have a lot to get to. I just want to 13 make sure I use our time as efficiently as possible. 14 So let's just go in order to keep things 15 simple. So we already laid out some framework. We 16 will get to 141 here in a little bit. 17 For 21, I'm overruling the objections, but 18 I will bring it down with a limiting instruction 19 that it's applied to the Union only, not as to 20 Southwest. 21 22 is the next one we have both Southwest 22 and Union objections to. This is emails regarding a 23 recall campaign. 24 So any brief argument that Southwest or 25 Union wants to make from this, and I will hear a</p>	<p style="text-align: right;">Page 220</p> <p>1 Carter response. 2 MR. GILLIAM: Your Honor, it is the same 3 position as with 21. 4 THE COURT: Understood. 5 Anything to add from the Union? 6 MR. GREENFIELD: I think we have multiple 7 layers of hearsay issues. We are looking at 8 multiple Facebook posts, Facebook documents. And so 9 they are out-of-court statements being offered for 10 the truth of the matter asserted and they violate -- 11 THE COURT: What is the hearsay response? 12 MR. GILLIAM: On the hearsay response, 13 they are not really being offered for the truth of 14 the matter asserted, they are being offered for 15 Southwest's knowledge of President Stone struggling 16 with a recall campaign. 17 All right. Then I do have something else 18 to say about that because that again goes to the 19 heart of our motion in limine. 20 The fact that some senior executive who 21 had nothing to do with Ms. Carter's termination got 22 an email in 2013 about the recall election has 23 nothing to do with Ms. Carter's claims regarding her 24 termination in 2017. 25 What they want to do is get this in front</p>

<p style="text-align: right;">Page 221</p> <p>1 of the jury, and say, you know, Look, Southwest 2 should have reported this claim or should have 3 reported this issue back in 2013. 4 But again, Sonya Lacore was not a 5 decision-maker with respect to Ms. Carter's 6 termination, she was not involved in the 7 investigation. She was copied on a couple of 8 documents. 9 THE COURT: Understood. 10 So my ruling on this one is I think it 11 fits within a hearsay exception. However, I do 12 think it still has a limiting instruction that comes 13 in with it. 14 MR. GILLIAM: Your Honor, may I respond? 15 THE COURT: So it comes in as to Union but 16 not as to Southwest. 17 MR. GILLIAM: I think it is relevant to 18 Southwest. 19 THE COURT: How so? 20 MR. GILLIAM: Because this exhibit has 21 nothing to do with employee discipline or 22 comparators at all. It has nothing to do with 23 employee discipline or similarly-situated 24 comparators. 25 It is an email where Southwest senior</p>	<p style="text-align: right;">Page 222</p> <p>1 management is talking about Stone's struggles with 2 the recall campaign. 3 So it's not about employee discipline at 4 all. It's about Southwest's knowledge and their 5 reaction to the recall campaign and Ms. Stone's -- 6 the opposition she's dealing with. 7 THE COURT: 20-second response, 8 Mr. McKeeby. 9 MR. McKEEBY: What does that have to do 10 with Ms. Carter's termination four years later? It 11 is irrelevant. 12 MR. GILLIAM: Motive, your Honor. 13 MR. McKEEBY: But these aren't 14 decision-makers. That's why the motive, if it were 15 a decision-maker, then it might be relevant to 16 motive. But Ms. Lacore had nothing to do with that 17 decision, and therefore, it's irrelevant and 18 prejudicial, and that is why it should be kept out, 19 as the Court has already ruled. 20 MR. GILLIAM: On the complaint. 21 THE COURT: I'm not convinced on relevance 22 as to Southwest. So I will still stick to my course 23 and say it fits within hearsay exceptions, but it is 24 still limited as to Union only, not as to Southwest. 25 MR. GREENFIELD: Your Honor, just so we</p>
<p style="text-align: right;">Page 223</p> <p>1 are clear, when you say "limiting," we would ask for 2 a limiting instruction that the posts, as presented 3 by Mr. Gilliam, are not being offered for the truth, 4 and we would ask for that instruction to the jury. 5 THE COURT: I saw that request, and I have 6 never done that before. And I will tell you why. 7 You are asking me to tell them what is 8 going on with a legal side show. I just don't do 9 that. I could say, Well, this is present state 10 mental impression, right? What on earth is that? 11 So I get your request, but -- you can 12 bring that up if you want to in cross, but I don't 13 signal to them. I try not to even tell them what my 14 rulings are, right? If we're over here at a 15 sidebar, I don't even tell them what I ruled, much 16 less why. 17 So I get your point, but I have never done 18 that before, I'm not going to start, because I think 19 it starts injecting a legal debate into the factual 20 resolution that they are getting to. 21 The next one I have is 23. 22 So 22, I overruled the objections, but it 23 will come in with a limiting instruction. 24 23. Any argument from -- well, sorry. I 25 said I would cover Southwest first. That is Union</p>	<p style="text-align: right;">Page 224</p> <p>1 only. 2 Scrolling down to Southwest. 3 I have Southwest, next one as the batch at 4 68 to 72. 5 MR. McKEEBY: It is actually 31. But that 6 is a different basis. I don't know how the Court 7 wants to cover it. 8 THE COURT: I will go back to 31. What 9 argument do you want to make on 31? 10 MR. McKEEBY: It is similar argument, but 11 this is different in that it is a statement from a 12 employee or former employee about her social media 13 experience, violations, and discipline. 14 She says in the fourth paragraph, "Each 15 time I was turned in, management would tell me that 16 I was not receiving discipline, but not -- to tread 17 lightly when posting, and reminded me of the very 18 strict social media policy that had been implemented 19 by management." 20 Again, so it has nothing to do with 21 Ms. Carter. It is a statement by a different 22 employee about her situation, and it is going to 23 confuse the jury and is irrelevant for the reasons 24 that are set forth in our motion in limine. 25 And this one is different in that it</p>

<p style="text-align: right;">Page 225</p> <p>1 doesn't even relate, appear to relate to a complaint 2 from the Union or the Union leadership. So this one 3 shouldn't be admitted at all. 4 That's my argument. 5 THE COURT: Okay. Then Union also has 6 arguments. 7 Anything you want to make in addition to 8 those arguments? 9 MR. GREENFIELD: We would echo the 10 relevance argument, but also that this is hearsay. 11 They also have Ms. Jeanna Jackson listed 12 on their witness list. If they would like to call 13 her up and talk about these things, they are 14 certainly able to do that. 15 This is an out-of-court statement being 16 offered for its truth. 17 THE COURT: What is the response on 31? 18 MR. GILLIAM: On 31, Jeanna Jackson was 19 the leader of the recall campaign, and we have 20 evidence showing that she was being reported by 21 Union actors throughout this time period. 22 And again, it is relevant to both 23 Southwest's knowledge of the recall efforts going on 24 and to their retaliatory motive for Carter's RLA 25 claims against Southwest, as well as against the</p>	<p style="text-align: right;">Page 226</p> <p>1 Union. 2 It's also relevant to the DFR claims as to 3 how the Union was responding to Ms. Jackson and how 4 various Union actors were reporting her for 5 discipline. 6 THE COURT: What about hearsay? 7 MR. GILLIAM: On hearsay, it is -- they 8 are mental impressions. We can call Ms. Jackson to 9 verify this information. It's not really introduced 10 for the truth of the matters asserted. 11 THE COURT: So my ruling on this one is I 12 get its relevance and I think it is relevant. 13 The problem is hearsay. If this is 14 present tense mental impression, then everything is. 15 It's a really long letter, right? You 16 could put her on the stand and she could talk about 17 it. If she doesn't remember it, you could use it to 18 refresh. 19 I think it is certainly a topic you can 20 get into, but in this form I think it is hearsay. 21 So I will sustain the objection from 22 Southwest and the Union on hearsay grounds on 23 Exhibit 31. 24 Okay. So are we now to 68 to 72, 25 Mr. McKeeby?</p>
<p style="text-align: right;">Page 227</p> <p>1 MR. McKEEBY: 57 is another one that I 2 raised. It's just a newspaper article. I don't 3 understand the relevance and think it is hearsay. 4 THE COURT: Understood. 5 Anything to add from the Union? 6 It looks like relevance and hearsay are 7 your two objections, Mr. Greenfield. 8 MR. GREENFIELD: Correct, your Honor. 9 THE COURT: So relevance and hearsay for 10 57? 11 MR. GILLIAM: Yes, your Honor. 12 We think it comes in as a party admission 13 by TWU as to why members were there in Washington, 14 DC. They were there to participate in the march. 15 And so it's also relevant as to showing 16 why the Union was attending the -- why they were 17 there at the time they were there and that they were 18 there to attend the march. 19 MR. GREENFIELD: Your Honor, if I may 20 provide a response to that. 21 THE COURT: Briefly. 22 MR. GREENFIELD: This is not a Local 556 23 document. This is a document from a publication by 24 the International Union, which is not a party to 25 this case. It is hearsay.</p>	<p style="text-align: right;">Page 228</p> <p>1 THE COURT: What is the response from 2 Carter to that? 3 MR. GILLIAM: TWU is their parent union. 4 They are Transport Workers Union of America, Local 5 556. And it is -- the article was talking about TWU 6 locals taking action nationwide. 7 THE COURT: Response to the TWU as a 8 parent argument, Mr. Greenfield? 9 MR. GREENFIELD: Well, your Honor, they 10 are not a party to this case. While we are a local, 11 they are very separate. Hence, why you see some of 12 the issues with separation of dues and money that go 13 to the different organizations. 14 They are different entities, and they are 15 asking about an article which we don't have an 16 author to. We don't know who wrote this. We can't 17 test its veracity, for all of the reasons that we 18 exclude hearsay documents. 19 THE COURT: Understood. 20 Okay. My ruling on this one, number 57, 21 is I will go ahead and sustain that hearsay 22 objection. I think, given that it is a parent, I 23 still don't think I can get there without piercing 24 the corporate veil, so to speak. 25 So I'm not going to do that in this</p>

<p style="text-align: right;">Page 229</p> <p>1 context without a showing of commingling in the 2 organizations functioning as one. 3 Okay. What objection are we to next? 4 Mr. McKeeby. 5 MR. McKEEBY: 68 through 72 fall under the 6 same -- I can't resist -- bucket as 21 and 22. 7 They are, again, directly covered by the 8 Court's ruling on our motion in limine, and to the 9 extent admissible, should be admitted with a 10 limiting instruction. 11 THE COURT: Understood. 12 Any additional argument, Mr. Greenfield, 13 on that bucket, 68 to 72? 14 MR. GREENFIELD: It just goes into even 15 further more tangential Facebook posts. So we just 16 renew our relevance and hearsay objections. 17 THE COURT: Understood. 18 My leaning on this one is to allow them 19 in, tangential though they are, and just remind you 20 of the clock and efficiency, right? And efficient 21 presentation. People get bogged down in exhibits 22 all of the time that have marginal relevance, and 23 that is where they kill themselves on the time 24 clock. 25 So I will let it in, 68 through 72, but I</p>	<p style="text-align: right;">Page 230</p> <p>1 will do so with a limiting instruction. So I'm 2 making a note of that, to bring that up every time 3 such an exhibit is offered and admitted into 4 evidence. 5 Okay, Mr. McKeeby, we are through 72. 6 Where are we at now? 7 MR. McKEEBY: 132. 8 And that's another -- it's a relevance 9 objection. But, again, this one doesn't appear to 10 even relate to a report by the Union, so I'm not 11 sure it should come in at all. 12 And so for the reasons raised in our 13 motion in limine, relevance, prejudice, misleading 14 the jury -- or confusing the jury, I should say, it 15 should not be admitted. 16 THE COURT: Understood. 17 Anything to add from the Union? 18 MR. GREENFIELD: Depending on who they 19 bring this in through, it is also hearsay, your 20 Honor. 21 In addition, it's talking about 22 information that they have gathered about potential 23 witness reports, et cetera, which then leads us to 24 the best evidence argument. 25 If there are actual reports of these</p>
<p style="text-align: right;">Page 231</p> <p>1 individuals, for example, Ms. Stone and Ricci Spand 2 making complaints to the company, if those were 3 actually done or done properly, or specifically who 4 they were done by, we should just look at that 5 evidence. 6 THE COURT: All right. Response from 7 Carter. 8 MR. GILLIAM: Yes. It's relevant because 9 it's President Stone and Shop Steward Ricci Spand 10 reporting the recall leader, Jeanna Jackson. So it 11 shows motive, plan, intent, knowledge, opportunity. 12 So it's also an exception to hearsay and 13 directly relevant to Carter's DFR and retaliation 14 claims against the Union. 15 THE COURT: Yes. Okay. I will do the 16 same as I did for 21 through 22, the other bucket. 17 So I will admit it with a limiting instruction. 18 MR. GREENFIELD: Your Honor, may I have a 19 ruling on the best evidence argument as well? 20 THE COURT: Lay out your best evidence 21 argument. 22 MR. GREENFIELD: Okay. 23 THE COURT: Go for it. 24 MR. GREENFIELD: Thank you. 25 THE COURT: Sorry. Can you lay out your</p>	<p style="text-align: right;">Page 232</p> <p>1 best evidence argument? 2 MR. GREENFIELD: Yes, your Honor. 3 So I think the problem is that we have 4 risk of confusion here. It's saying flight 5 attendants Audrey Stone and Ricci Spand alleging 6 retaliation from several other flight attendants. 7 We don't know who to attribute that to. 8 We don't know whether it was Ms. Stone, Ms. Spand, 9 and what capacity and who those retaliation 10 complaints were against. 11 And we should just look at those 12 complaints, if those actually exist, and who they 13 exist against. 14 And I think that's very important, 15 especially for Ms. Stone, because they are trying to 16 pass her actions off for all of the Union and they 17 are trying to create an argument of a pattern of 18 turning in AFO's objectors. 19 Who they are turning in would be directly 20 relevant to that. Maybe they are turning in people 21 who have nothing to do with their argument. But 22 that is what they are trying to conflate. 23 And so if those complaints exist, that's 24 the evidence we should be looking at. 25 THE COURT: So I understand the argument,</p>

<p style="text-align: right;">Page 233</p> <p>1 but I overrule those, because usually the best 2 evidence arguments don't put to the actual trial 3 exhibit that's the best evidence. 4 So if they did, then that gets my 5 attention. But to the extent that it doesn't, that 6 is my understanding of the flaw in the argument. 7 So I will overrule that best evidence 8 argument as well. 9 So I will admit this, 132, with a limiting 10 instruction. 11 Mr. McKeeby, are we to 140? 12 MR. McKEEBY: 140, 141, and 146 fall into 13 the same category, and a familiar one that Southwest 14 objects for the grounds set forth in its motion in 15 limine. 16 And to the extent those documents are 17 admissible, they should be admitted with a limiting 18 instruction. 19 THE COURT: And relevance, prejudice, 20 hearsay are the additional arguments that you are 21 making, Mr. Greenfield? 22 MR. GREENFIELD: Yes, your Honor. 23 THE COURT: Okay. 24 So response. 25 MR. GILLIAM: The same response as to 21,</p>	<p style="text-align: right;">Page 234</p> <p>1 22, 132. These are -- these involve Stone and other 2 Union actors complaining to the company about 3 non-member objectors, and also, Mr. Talburt 4 complaining about the recall leader, Jeanna Jackson, 5 and go to the Union's retaliatory motive and DFR 6 claims. 7 MR. GREENFIELD: Your Honor, if I may, on 8 146, I believe it is a little bit different. 9 THE COURT: Okay. What I will do is let 10 me go ahead and rule on 140 and 141. 11 I will have my same rulings as the prior 12 buckets with 21 and 22. I will admit with a 13 limiting instruction. 14 But let's carve out 146 and hit me with 15 your additional 146 argument. 16 MR. GREENFIELD: Your Honor, if we 17 ultimately just pause for a brief moment, I know 18 that the rule has been invoked in this case, and I 19 have seen a witness enter at this time. 20 THE COURT: All righty. 21 Is anyone in here in the courtroom who is 22 a witness in the case? 23 MR. GILLESPIE: Your Honor, Ms. Stone is 24 here, and I didn't realize there was testimony 25 taking place.</p>
<p style="text-align: right;">Page 235</p> <p>1 THE COURT: Okay. There is no testimony 2 taking place. There is legal argument. But we are 3 talking about exhibits, and so we're basically 4 functioning as if we are at a sidebar. 5 So at a sidebar, I don't let the witnesses 6 hear what is going on and come over here. 7 So I would appreciate it if you would go 8 back out to the hall or find some other place. 9 If y'all need to coordinate to talk 10 timing, I will be happy to excuse a lawyer out to 11 the hall to talk through timing. 12 MR. GILLESPIE: Thank you. 13 THE COURT: Mr. Greenfield. 14 MR. GREENFIELD: Yes, your Honor. 15 THE COURT: Okay. Now 146. 16 I don't know what anyone looks like, so I 17 appreciate y'all patrolling the rule. I'm the only 18 one facing them, but I'm the only one who doesn't 19 know who they are. 20 MR. GREENFIELD: Out of the corner of my 21 eye I was able to catch that. 22 THE COURT: Very good. 23 MR. GREENFIELD: I think 146 is a little 24 bit different in regards to the other documents we 25 have talked about.</p>	<p style="text-align: right;">Page 236</p> <p>1 If you look at page 6, what Ms. Stone is 2 requesting is that the company take objectors off of 3 joint committees between 556 and the Union, joint 4 union company committees. 5 There is nothing illegal about that. 6 And, again, I think they are just using it 7 for prejudicial purposes. If that action is not 8 illegal, then it is irrelevant and it is prejudicial 9 to confuse the jury that this is another action of 10 retaliation, when it is not. 11 THE COURT: What's your response on the 12 additional 146 argument on legality? 13 MR. GILLIAM: Well, I think that, again, 14 it shows that Stone is turning in non-member 15 objectors, just like Ms. Carter. Ms. Carter was a 16 non-member objector. 17 And it shows Ms. Stone's efforts to get 18 the company to act against non-member objectors in 19 this case, taking them off of joint union and 20 employee committees. So, again, it's -- that's -- I 21 think it is relevant for those reasons. 22 MR. GREENFIELD: And, your Honor, to be 23 clear, she's not turning anyone in here. All she's 24 doing is reaching out to the company. 25 If you look at page 6, it is just her and</p>

<p style="text-align: right;">Page 237</p> <p>1 Ms. Stone asking the company to coordinate to take 2 non-members off of joint committees. 3 They objected to the union. They gave up 4 their voice. They don't get to serve on joint 5 committees between the union and the company any 6 longer. That is all Ms. Stone is trying to do. 7 There is no complaint existing in this document. 8 THE COURT: So I get your point. I don't 9 think it rises to the level of unfair prejudice. I 10 think it is a point to bring up on cross to diffuse 11 the value of their exhibit. 12 So I will overrule the objection, I will 13 let it in, and I will include the limiting 14 instruction on 146. 15 Okay. So let's go back up to, at the top. 16 Let me ask... 17 Our jurors are here. So let me say for 18 the objections I didn't get to, Mr. Greenfield, of 19 yours, what you can do is, to save time, if you want 20 to, you can say "same objections as earlier." 21 I have a leaning on what I would do with 22 them. If you want to argue them at sidebar, that is 23 perfectly fine. You may call as many sidebars as 24 you want. But the sidebars that anyone loses, the 25 time goes to them. So keep that in mind.</p>	<p style="text-align: right;">Page 238</p> <p>1 So if you just say, "Objection, same 2 objections as this morning," I know what I'm going 3 to do on them, right? 4 And there may be some that I call a 5 sidebar because I want more argument on them but I 6 have researched them all and so I have a leaning. 7 So I can still be efficient even though we 8 haven't gotten to yours this morning, but call a 9 sidebar. If you really want to argue one to me. 10 Does that make sense? 11 MR. GREENFIELD: Yes, your Honor. 12 Thank you. 13 THE COURT: Okay. As far as opening, are 14 we doing -- 15 MR. PRYOR: I have a point about opening. 16 THE COURT: Yes. 17 MR. PRYOR: You ordered Southwest to 18 provide us the demonstrative evidence they were 19 going to use in opening. 20 It is not demonstrative evidence. It is 21 evidence. They are attempting to display to the 22 jury the pictures of the fetuses. That is not in 23 evidence yet. This is opening; it is not evidence. 24 And they are displaying their actual wording of 25 their policies and their policies, it is not</p>
<p style="text-align: right;">Page 239</p> <p>1 demonstrative, it is evidence. It is inappropriate. 2 THE COURT: Understood. 3 Response from Southwest? 4 MR. McKEEBY: Your Honor, I'm not asking 5 for it to be admitted during the opening, obviously, 6 but if these are exhibits that are listed in the 7 documents that plaintiff's counsel provided and they 8 should be raised with the jury during opening. 9 There is nothing wrong with that. 10 I'm not asking it to be admitted, 11 obviously, but the jury is going to hear about the 12 policies. There is no reason they can't see the 13 policy during the opening. 14 THE COURT: Is there anything that you're 15 showing the jury that they have not asked to admit 16 today? 17 MR. McKEEBY: No. 18 THE COURT: Okay. I will allow it. 19 But I want you to preface it with a caveat 20 that this is not evidence. This is what we expect 21 the evidence that will be admitted will show to you. 22 MR. PRYOR: Your Honor, given that ruling, 23 we would like to play some of the video depositions 24 during opening. 25 That's -- it's your ruling, your Honor.</p>	<p style="text-align: right;">Page 240</p> <p>1 You are saying evidence is admitted. We would like 2 to play evidence for the jury as well. 3 THE COURT: No. No one can, right? To 4 play video depo. You can say, we expect you will 5 hear from this witness. 6 MR. PRYOR: But it's not as effective as 7 showing the jury the testimony itself just as it's 8 not as effective for him to say -- 9 THE COURT: No. 10 MR. PRYOR: Okay. I tried. 11 THE COURT: Any other issues with opening? 12 Okay. So what is the order? You're 13 going, and then defense. Who is going first? Have 14 y'all arm wrestled over that? 15 MR. McKEEBY: We have not arm wrestled. 16 THE COURT: Okay. 17 MR. McKEEBY: I'm happy to go first. 18 THE COURT: Okay. That works. McKeeby, 19 then Greenfield. Okay. Got it. That's our run of 20 show. 21 We'll bring them in. We'll swear them in. 22 I will give them the standard instructions I need to 23 and then we will open, open, open, and then we'll 24 probably take our morning break and then call our 25 first witness. Fair?</p>

<p style="text-align: right;">Page 241</p> <p>1 MR. PRYOR: Okay.</p> <p>2 THE COURT: Okay.</p> <p>3 You can take a -- how about we do this?</p> <p>4 We're going to take a five-minute break for y'all's</p> <p>5 sake. You can reset, use the bathroom, if you need</p> <p>6 to.</p> <p>7 We are going to line up them up, tell them</p> <p>8 how the first run goes, and then I will back in five</p> <p>9 minutes and we will get going.</p> <p>10 THE COURT SECURITY OFFICER: All rise.</p> <p>11 (Recess.)</p> <p>12 THE COURT SECURITY OFFICER: All rise.</p> <p>13 THE COURT: Okay. Let's bring them in.</p> <p>14 THE COURT SECURITY OFFICER: All rise for</p> <p>15 the jury.</p> <p>16 (The jurors entered the courtroom.)</p> <p>17 THE COURT: All right. Now, Mr. Frye is</p> <p>18 going to swear you in as jurors.</p> <p>19 (The jurors were sworn.)</p> <p>20 THE COURT: Okay. The United States</p> <p>21 District Court, in and for the Northern District of</p> <p>22 Texas is now in session.</p> <p>23 The Honorable United States District Judge</p> <p>24 Brantley Starr presiding.</p> <p>25 All those having business with this Court,</p>	<p style="text-align: right;">Page 242</p> <p>1 draw near and you shall be heard.</p> <p>2 Please be seated.</p> <p>3 THE COURT: Okay. Well, thank you for</p> <p>4 being here.</p> <p>5 I will say before I give you our starting</p> <p>6 instructions, that our second president, John Adams,</p> <p>7 said that the right to vote and a trial by jury are</p> <p>8 the heart and lungs of American democracy.</p> <p>9 So thank you for being the lungs of</p> <p>10 American democracy. We appreciate you serving in</p> <p>11 this capacity.</p> <p>12 You now have been sworn in as the jury to</p> <p>13 try this case. As the judge, I will decide all</p> <p>14 questions of law and procedure. As the jury, you</p> <p>15 are the judges of the facts.</p> <p>16 At the end of the trial, I will instruct</p> <p>17 you on the rules of law that you must apply to the</p> <p>18 facts as you find them.</p> <p>19 You may take notes during this trial. Do</p> <p>20 not allow your note-taking to distract you from</p> <p>21 listening to the testimony. Your notes are an aid</p> <p>22 to your memory.</p> <p>23 If your memory should later be different</p> <p>24 from your notes, you should rely on your memory.</p> <p>25 Do not be unduly influenced by the notes</p>
<p style="text-align: right;">Page 243</p> <p>1 of other jurors. The jurors' notes are not entitled</p> <p>2 to any greater weight than each juror's recollection</p> <p>3 of the testimony.</p> <p>4 Until this trial is over, do not discuss</p> <p>5 this case with anyone and do not permit anyone to</p> <p>6 discuss this case in your presence.</p> <p>7 This includes your spouse, children,</p> <p>8 relatives, friends, coworkers, and people with whom</p> <p>9 you commute to court each day.</p> <p>10 During your jury service, you must not</p> <p>11 communicate any information about this case by any</p> <p>12 means, by conversation or with tools of technology.</p> <p>13 For example, do not talk face-to-face or</p> <p>14 use any electronic device or media, such as a phone,</p> <p>15 computer, the Internet, or any Internet or messaging</p> <p>16 service, or any other way to communicate with anyone</p> <p>17 any information about this case, until after I</p> <p>18 accept your verdict or excuse you as jurors.</p> <p>19 Do not even discuss this case with other</p> <p>20 jurors until the end of the case when you retire to</p> <p>21 deliberate.</p> <p>22 It is unfair to discuss the case before</p> <p>23 all the evidence is in because you may become an</p> <p>24 advocate for one side or another.</p> <p>25 The parties, the witnesses, the attorneys</p>	<p style="text-align: right;">Page 244</p> <p>1 and persons associated with the case are not allowed</p> <p>2 to communicate with you. And you may not speak with</p> <p>3 anyone else in or around the courthouse other than</p> <p>4 your fellow jurors or court personnel.</p> <p>5 Do not make any independent investigation</p> <p>6 of this case. You must rely solely on what you see</p> <p>7 and hear in this courtroom.</p> <p>8 Do not try to learn anything about the</p> <p>9 case from any other source. In particular, you may</p> <p>10 not use any electronic device or media, such as</p> <p>11 telephone, cell phone, smart phone, or computer to</p> <p>12 research any issue touching on this case.</p> <p>13 Do not go online or read any newspaper</p> <p>14 account of this trial, or listen to any radio or</p> <p>15 television newscast about it.</p> <p>16 Do not visit or view any place discussed</p> <p>17 in this case and do not use Internet programs or</p> <p>18 other devices to search for or view any place</p> <p>19 discussed in the testimony.</p> <p>20 In sum, you may not research any</p> <p>21 information about this case, the law, or the people</p> <p>22 involved, including the parties, the witnesses, the</p> <p>23 lawyers, or me, your judge, until after you have</p> <p>24 been excused as jurors.</p> <p>25 There are some issues of law or procedure</p>

<p style="text-align: right;">Page 245</p> <p>1 I must decide that the attorneys and I must discuss. 2 These issues are not part of what you must decide. 3 They are not properly discussed in your presence. 4 To avoid having you leave the courtroom 5 and to save time, I may discuss these issues with 6 the attorneys at the bench over here at the side, 7 outside of your hearing. 8 I will press a button; it will turn on 9 white noise, and then we will try to whisper loud 10 enough for us to hear but not for y'all to hear. 11 When I confer with the attorneys at the 12 bench, please don't listen to what we are 13 discussing. If the discussions require more time, I 14 may have to have you leave the courtroom until the 15 lawyers and I can resolve those legal issues. 16 I will try to keep these interruptions as 17 few and as brief as possible. 18 The trial will now begin and lawyers for 19 each party will make an opening statement. Opening 20 statements are intended to assist you in 21 understanding the significance of the evidence they 22 expect to be presented. But the opening statements 23 are not evidence. 24 After the opening statements, the 25 Plaintiff will present her case through witness</p>	<p style="text-align: right;">Page 246</p> <p>1 testimony and documentary or other evidence. 2 Next, the Defendants will have an 3 opportunity to present their cases. 4 The Plaintiff may then present rebuttal 5 evidence. 6 After all the evidence is introduced, I 7 will instruct you on the law that applies to this 8 case. 9 The lawyers will then make their closing 10 arguments. Closing arguments are not evidence, but 11 rather the attorneys' interpretations of what the 12 evidence has shown or not shown. 13 And, finally, you will go to the jury room 14 to deliberate to reach a verdict. 15 Keep an open mind during the entire trial. 16 Do not decide the case until you have heard all the 17 evidence, my instructions, and the closing 18 arguments. 19 Before we do opening statements, what I 20 want do is read some stipulations to you. 21 Those stipulations are just agreements 22 among the parties. Lawyers can do this with their 23 clients to make sure that it streamlines the case 24 and gives you agreements that they have reached in 25 advance that no one needs to prove here in court and</p>
<p style="text-align: right;">Page 247</p> <p>1 these lawyers have done that in this case. 2 So there are a total of, I believe, 15 3 stipulations. I'm going to read them to you now. 4 You don't have to write them all down because I will 5 include them in the jury charge that I give to you 6 at the end of the case that includes the relevant, 7 but I will read them for you now. 8 (Discussion off the record.) 9 THE COURT: All right. 10 We are making the jump to hyperspace. 11 Here we go. 12 Stipulation 1: Charlene Carter is a 13 Christian who believes that abortion is the taking 14 of a human life contrary to the teachings of the 15 Bible and the will of God. 16 No. 2: Carter was hired as a flight 17 attendant by Southwest in 1996. 18 No. 3: TWU Local 556 is the local union 19 representing flight attendants working at Southwest 20 Airlines. 21 No. 4: Local 556 served as Carter's 22 exclusive bargaining representative throughout her 23 tenure with Southwest. 24 5: For several years Carter objected to 25 certain decisions by and the leadership of Local</p>	<p style="text-align: right;">Page 248</p> <p>1 556's leadership, email messages, and Facebook 2 postings. 3 6: In September 2013, Carter resigned her 4 membership with Local 556 and was an agency 5 fee-paying non-member objector until her termination 6 in 2017. 7 7: Starting in early 2015, Carter began 8 sending messages to Stone discussing Carter's status 9 as a Union objector. 10 These emails and messages continued for 11 the termination of Carter's employment by Southwest. 12 8: From 2015 through 2017, Carter 13 continued in various efforts opposing the Union and 14 the Union's then president Audrey Stone. 15 Carter supported a recall campaign and 16 posted and sent messages on social media expressing 17 her disapproval of the Union and Union leadership. 18 Carter sent many direct messages to Stone 19 to which Stone never responded. 20 9: In January of 2017, members of Local 21 556, including President Stone, attended a 22 union-sponsored Women's Committee Meeting in 23 Washington, DC. 24 10: On January 21st, 2017, certain 25 members of Local 556 attended the Women's March in</p>

<p style="text-align: right;">Page 249</p> <p>1 Washington, DC.</p> <p>2 11: On February 14th, 2017, Carter sent</p> <p>3 Local 556 President Audrey Stone private messages</p> <p>4 via Facebook Messenger.</p> <p>5 12: President Stone never sent Carter</p> <p>6 responses to the private messages.</p> <p>7 13: On February 22nd, 2017, President</p> <p>8 Stone reported Carter's emails and Facebook messages</p> <p>9 to Stone's base manager, Suzanne Stephensen, in Las</p> <p>10 Vegas, Nevada.</p> <p>11 14: On March 7, 2017, Southwest held a</p> <p>12 fact-finding meeting with Carter as part of its</p> <p>13 investigation of President Stone's complaint.</p> <p>14 15: On March 14th, 2017, Southwest sent</p> <p>15 Carter a termination notice.</p> <p>16 That ends the stipulations. So with that,</p> <p>17 we are now going to move to the opening statements</p> <p>18 by the lawyers.</p> <p>19 Mr. Pryor will open for the Plaintiff</p> <p>20 Carter.</p> <p>21 MR. PRYOR: Thank you, your Honor.</p> <p>22 In 1983, Charlene Carter was 19 years old,</p> <p>23 and she had a problem. She was living with her</p> <p>24 boyfriend in Lake Dallas, Texas. Her parents had</p> <p>25 disowned her because she was living out of wedlock.</p>	<p style="text-align: right;">Page 250</p> <p>1 Her father called her a whore.</p> <p>2 Her boyfriend was going to college. She</p> <p>3 had been going to college, but she quit in order to</p> <p>4 take two jobs to put her boyfriend through college.</p> <p>5 She was pregnant and she had no support.</p> <p>6 She waited a day after finding out to tell her</p> <p>7 boyfriend, and he didn't want a child. He didn't</p> <p>8 want to get married. He was in a fraternity, he was</p> <p>9 going to school. And so she was left on her own.</p> <p>10 A tough decision for a 19-year-old.</p> <p>11 By the way, we are talking about</p> <p>12 Charlene's story as it relates to her beliefs and</p> <p>13 her exercise of her religious freedom here. I'm not</p> <p>14 trying to convince anyone of anything. I just hope</p> <p>15 you can respect her experience.</p> <p>16 So at 19 she goes to see her doctor.</p> <p>17 She's nine-and-a-half weeks pregnant.</p> <p>18 She goes home, she pulls out the Yellow</p> <p>19 Pages, and she looks for the number for Planned</p> <p>20 Parenthood.</p> <p>21 She goes there. And she goes there with</p> <p>22 every intention of getting an abortion if she gets</p> <p>23 answers that she's really hoping to hear from them.</p> <p>24 She goes there, and they tell her that</p> <p>25 that's not a baby, it's a zygote. Don't worry about</p>
<p style="text-align: right;">Page 251</p> <p>1 it. And she accepts that answer.</p> <p>2 In her heart she will tell you she knew it</p> <p>3 wasn't right for her, but she accepted it and she</p> <p>4 had the abortion.</p> <p>5 And it was devastating for her. She was</p> <p>6 depressed for years.</p> <p>7 To deal with the depression, she married</p> <p>8 her boyfriend. And she will tell you, walking down</p> <p>9 the aisle, she was thinking about the fact that he</p> <p>10 had not supported her when she had the abortion.</p> <p>11 But she married him because the guy you</p> <p>12 sleep with is the guy you are supposed to marry.</p> <p>13 And the depression does not go away.</p> <p>14 She finally, after years, she goes to a</p> <p>15 church, and at this church -- again, I'm not</p> <p>16 preaching to you, this is her experience.</p> <p>17 But at this church, she's at a women's</p> <p>18 Bible study, and it is basically an auditorium full</p> <p>19 of women and then they will break into smaller</p> <p>20 groups.</p> <p>21 And the speaker stood up and talked about</p> <p>22 something she had never heard talked about in</p> <p>23 church.</p> <p>24 The speaker talked to her about God's</p> <p>25 love, God's forgiveness, and then the speaker asked</p>	<p style="text-align: right;">Page 252</p> <p>1 anyone that's had an abortion to stand up.</p> <p>2 There was not a rush of people to stand</p> <p>3 up. Charlene had been carrying this for years. She</p> <p>4 stood up and another stood up. And then the speaker</p> <p>5 talked about people affected by abortion.</p> <p>6 Eventually, everyone in the auditorium is standing</p> <p>7 up and they pray.</p> <p>8 And Charlene felt God's love, she felt his</p> <p>9 forgiveness, and she felt his guidance that she use</p> <p>10 her experience to help others and to save babies.</p> <p>11 And that is what she's done.</p> <p>12 By the way, she's not out or has ever been</p> <p>13 protesting in front of a Planned Parenthood office.</p> <p>14 That is not her. She's helping women that were in</p> <p>15 the same situation she was when she was 19 years</p> <p>16 old.</p> <p>17 That's to inform you about her religious</p> <p>18 belief and how she exercised it and got fired for</p> <p>19 it.</p> <p>20 Now, there is another aspect of her life</p> <p>21 that is involved in this case, and that is her</p> <p>22 union.</p> <p>23 And that begins in 1996. She goes to work</p> <p>24 for Southwest Airlines. She's very excited about</p> <p>25 it.</p>

<p style="text-align: right;">Page 253</p> <p>1 She had a son by then.</p> <p>2 By the way, I should mention that before</p> <p>3 she had her son, she was pregnant as well and lost</p> <p>4 that baby. And the reason I mention it is because</p> <p>5 she lost the baby because of complications from her</p> <p>6 abortion.</p> <p>7 That was part of the guilt she was</p> <p>8 carrying. But, you know, she felt God's forgiveness</p> <p>9 for that. She moved on and is helping people.</p> <p>10 But when she went to work in 1996, she was</p> <p>11 very excited. She went to work as a flight</p> <p>12 attendant.</p> <p>13 And Charlene, it's the perfect job for</p> <p>14 her. She's a people person, she likes helping</p> <p>15 people, she's a smiling person. She's like what you</p> <p>16 remember from Southwest in the Herb Kelleher days.</p> <p>17 She was the perfect employee for that position.</p> <p>18 In fact, let me fast forward.</p> <p>19 21 years, from 1996 to 2017, 21 years,</p> <p>20 she's a flight attendant for Southwest Airlines.</p> <p>21 How many times was she given a verbal warning, a</p> <p>22 written warning, a 30-day suspension, a probation?</p> <p>23 You name whatever penalty they have.</p> <p>24 Nothing. She was an absolutely stellar flight</p> <p>25 attendant and gave all of her efforts, as did many</p>	<p style="text-align: right;">Page 254</p> <p>1 other people, to make Southwest Airlines the</p> <p>2 successful airline it is today.</p> <p>3 But she had problems with her union.</p> <p>4 And I want to talk to you just for a</p> <p>5 minute. The judge explained it during voir dire.</p> <p>6 Let me cover it again.</p> <p>7 The relationship between Southwest</p> <p>8 Airlines, a union, and its employee.</p> <p>9 So this is Southwest Airlines, this is the</p> <p>10 Union and this is Charlene.</p> <p>11 So Southwest Airlines and the Union have a</p> <p>12 Collective Bargaining Agreement. By law, the only</p> <p>13 one that can deal with Southwest Airlines regarding</p> <p>14 employees' benefits, salary, work conditions is the</p> <p>15 Union.</p> <p>16 So it is the Union and Southwest.</p> <p>17 Charlene cannot talk to Southwest about,</p> <p>18 Hey, I want you to pay me more money. I want better</p> <p>19 work conditions. It is the union that does that.</p> <p>20 As a result of that, the law says, Union,</p> <p>21 you have to look after that employee because that</p> <p>22 employee can't do it. We give that responsibility</p> <p>23 to you.</p> <p>24 You have a fiduciary duty to that</p> <p>25 employee. It is the highest obligation under the</p>
<p style="text-align: right;">Page 255</p> <p>1 law. You cannot do anything against the interest of</p> <p>2 that employee. That is the relationship.</p> <p>3 So Charlene, she pays her dues. She's not</p> <p>4 terribly active in the union. In the year 2000, she</p> <p>5 thought the union was focused way too much on</p> <p>6 national things and politics instead of</p> <p>7 concentrating on what she thought a union should be</p> <p>8 doing, better work conditions, better pay.</p> <p>9 And a candidate ran, a young lady, I think</p> <p>10 it was Melissa Smith, ran, and Charlene was very</p> <p>11 excited about that candidacy. Melissa Smith wins.</p> <p>12 And Charlene then finds out a hard truth</p> <p>13 about her union. Melissa Smith is kicked out.</p> <p>14 So Melissa Smith gets elected by the</p> <p>15 voters, and the seniors at the national and</p> <p>16 international kicked Melissa Smith out.</p> <p>17 And this becomes a pattern. You will hear</p> <p>18 more about it. And this pattern is, they always</p> <p>19 have an excuse. You know, you kept that laptop two</p> <p>20 weeks too long, or you didn't turn in this</p> <p>21 reimbursement slip.</p> <p>22 By the way, some of the excuses, they are</p> <p>23 mostly petty, but some of them turned out to be</p> <p>24 completely false.</p> <p>25 Charlene's view is that they had</p>	<p style="text-align: right;">Page 256</p> <p>1 disenfranchised the voters, and this person that was</p> <p>2 going to come in and make the union better gets</p> <p>3 kicked out.</p> <p>4 This happens again in 2013. And this is a</p> <p>5 whole slate of candidates, five candidates for every</p> <p>6 officer position in the Local 556.</p> <p>7 All five of the candidates that Charlene</p> <p>8 supports get voted in. What happens to them? I can</p> <p>9 tell you, they are all kicked out within less than a</p> <p>10 year.</p> <p>11 And who do they put in power? The ones</p> <p>12 that lost. The vast majority voted for by the</p> <p>13 people get kicked out, and the ones that lost are</p> <p>14 put in the offices. One of those is Audrey Stone.</p> <p>15 She's the president of the union at this point.</p> <p>16 And so Charlene -- by the way, Audrey</p> <p>17 Stone is going to be the one that is going to</p> <p>18 complain and get Charlene fired. The Union</p> <p>19 president.</p> <p>20 Charlene starts complaining to her union.</p> <p>21 You heard the stipulation, sending emails, sending</p> <p>22 Facebook messages. And she's -- it is always</p> <p>23 precipitated by something.</p> <p>24 I'm upset that they kicked out these</p> <p>25 candidates. I'm upset that you're improperly</p>

<p style="text-align: right;">Page 257</p> <p>1 negotiating for us on a Collective Bargaining 2 Agreement. It's not good enough. 3 By the way, a Collective Bargaining 4 Agreement that was rejected by 87 percent of the 5 flight attendants. So it is not like Charlene is 6 just a rabble rouser. She's just not happy with 7 what her union is doing. 8 And she communicates that to the Union. 9 And there were a couple of ways. One is email 10 messages, but the other is Facebook messages. 11 Charlene had received Facebook messages 12 from her Union president, Audrey Stone, TWU, 13 Transportation Workers Union. 14 Ms. Stone used this Facebook page to send 15 out campaign information and seek support, tell 16 people to support the Collective Bargaining 17 Agreement, you name it. 18 And Charlene would respond, and say, No, I 19 disagree with that. And she responded on Facebook 20 message. 21 And interestingly, they are going to stand 22 up and tell you that really that's Audrey Stone's 23 personal Facebook message, that's not the Union. 24 For years she communicated with her like 25 that, and now they are going to tell you that, Oh,</p>	<p style="text-align: right;">Page 258</p> <p>1 that wasn't really the Union that was handling that 2 communication. 3 My client, Ms. Carter, doesn't know 4 Ms. Stone. She doesn't -- she doesn't know hardly 5 anything about her other than her union activities. 6 The only reason she's communicating with 7 her is to express her views about what the Union is 8 doing. She's not a Facebook friend. 9 So troubles continue. And you will hear 10 about them. There was a recall petition. This 11 became a problem. 12 After the Collective Bargaining Agreement 13 was rejected, a lot of flight attendants decided 14 they wanted to get a recall petition to get rid of 15 these five people that were not initially elected. 16 It's Audrey Stone, Bill Holcomb, John 17 Parrott, Brett Nevarez. There may be another name. 18 And Charlene supported that, and that put 19 a target on her back. 20 By the way, the recall petition was signed 21 by more than 50 percent of the flight attendants. 22 When they sent it to the Union to then have a recall 23 vote, the Union said, your petition is not good 24 enough. 25 The Union appointed some people to review</p>
<p style="text-align: right;">Page 259</p> <p>1 the petition and say it wasn't good enough. 2 Who were the people that appointed them? 3 Audrey Stone, Bill Holcomb, John Parrott, Brett 4 Nevarez. 5 It would be like if I could pick the jury 6 in this case, not that I don't like you guys, but if 7 I could pick my relatives or something, it might be 8 a little more easy case. 9 So this is what Charlene is doing. She's 10 complaining about all of this. And it's not 11 obscene. She's not using curse words. She's using 12 strong language trying to get her point across. 13 I think what you are doing is not moral. 14 I think what you are doing is corrupt. This is 15 terrible. Those kind of things. 16 Absolutely appropriate protected union 17 speech. 18 Brings us to 2017, the year she's going to 19 get fired. 20 In January of 2017, her union decides to 21 spend money for a bunch of people to go up to 22 Washington, DC. And one of the things they did 23 while they were there is they participated in a 24 Women's March. 25 That March was sponsored by Planned</p>	<p style="text-align: right;">Page 260</p> <p>1 Parenthood. And you can imagine Charlene's reaction 2 to her dues being used for that. 3 And I should say something about her dues. 4 At this point in time, she was an 5 objector. And an objector is, she quit the union at 6 some point. And you would think, Oh, so therefore, 7 she no longer has any interest in any of this. 8 No. That relationship we talked about is 9 unchanged by her being an objector. Being an 10 objector says, I quit the Union. 11 By the way, she still has to pay dues by 12 law. She's only represented by the Union still. 13 The Union still has that fiduciary obligation. 14 Well, then what's the point of quitting? 15 There's two points. 16 One is, from the Union standpoint, she 17 can't vote anymore, and then the other is she gets a 18 small reimbursement for all of the political 19 activities they are involved in. Her money doesn't 20 have to go for that. Now, she's still paying the 21 salaries of people that are going to these events. 22 So that's the point of an objector. It 23 certainly makes the Union upset with you if you are 24 an objector, but it doesn't change the legal 25 relationship.</p>

<p style="text-align: right;">Page 261</p> <p>1 You will hear, we believe, instructions 2 from the Court saying they still had that fiduciary 3 obligation to her. 4 So the Union posts pictures of the March, 5 and it's people holding up signs from Local 556, 6 saying, "Pro choice." It is sponsored by Planned 7 Parenthood. She's very upset about it. 8 By the way, it also has pictures of 9 Southwest Airlines' emblem. They wrote, "Southwest 10 Airlines" while they are marching down the street. 11 See if, wherever they talk to you about nexus, what 12 kind of nexus there was. And I will talk about 13 nexus in a minute. 14 Southwest Airlines complains about her 15 Facebook page. We will talk about how Southwest 16 Airlines dealt with the Women's March. 17 Charlene got fired. So Charlene sends a 18 complaint, and she sends it -- where does she send 19 it? Does she send it to every union member? She 20 could have. She didn't. Does she send it to 21 everyone at Southwest? She could have but didn't. 22 She sent a private Facebook message. That 23 means only one person can see it. And that is her 24 Union president. And she sends it to her Union 25 president to try and tell her, what you are doing is</p>	<p style="text-align: right;">Page 262</p> <p>1 wrong. 2 She's trying to make her point as she's 3 allowed to, with her Union president, to say, Don't 4 spend our money like this. And she said, What you 5 are doing supports murder. It is that strong. That 6 kind of strong speech is absolutely appropriate. 7 Southwest Airlines will tell you, Well, 8 that is over the top for us. 9 Well, that speech wasn't to Southwest 10 Airlines, it was to her Union president. She didn't 11 send it to people at Southwest Airlines. 12 They'll say, Well, she was a flight 13 attendant. 14 Now, Ms. Stone was a flight attendant. 15 She was a flight attendant that hadn't been on a 16 plane as a flight attendant in years, but they can 17 still say that. She was receiving that 18 communication as Union president. 19 There is a video, and it shows an aborted 20 fetus or baby, depending on how you look at it, and 21 it's moving. 22 She sent another video -- or another post 23 that Southwest complains about, that is pictures of 24 three ladies' faces in -- I'm sorry for this 25 language, but here we go -- vagina hats or pussy</p>
<p style="text-align: right;">Page 263</p> <p>1 hats, anatomically correct hats that were worn by 2 people at the march that was being supported by her 3 Union. 4 She was upset about that, and she sent 5 that to Ms. Stone, president of the Union, and said, 6 Look what you are supporting. There were children 7 at this March. This is inappropriate. 8 And so she makes her complaint. She's 9 exercising her union right to complain to her union. 10 She's exercising her religious freedom to express 11 her views about life. 12 And Audrey Stone turns her in to the 13 company on February 22, 2017. It is an interesting 14 date, as it turns out. February 22, 2017. 15 And she complains to Southwest Airlines 16 saying that this -- Charlene has violated the 17 company's social media policy. 18 She acknowledges that it's union speech, 19 she acknowledges that it relates to religion, and 20 yet she is still complaining. 21 She has that fiduciary obligation, but 22 she's still complaining. She's trying to get 23 Charlene fired. 24 What else was going on? Let me tell you 25 about the social media policy of Southwest Airlines.</p>	<p style="text-align: right;">Page 264</p> <p>1 And by the way, look at the actions of 2 Charlene. They weren't actions at her job, they 3 were actions dealing with her union. 4 But Southwest will tell you that it's on 5 the job because you sent it to a flight attendant. 6 They ignore the fact that she's the Union president. 7 So Charlene has sent this information. 8 What else is going on with the social 9 media policy? 10 In 2015, Audrey Stone, president of the 11 union, writes a message to all flight attendants, 12 including Charlene, saying, "Southwest's social 13 media policy is terrible. They are applying it 14 subjectively. They are using it to go after people 15 and not other people. This policy is terrible. We 16 are going to try and get Southwest to get rid of it 17 or change it. 18 "And, by the way, don't be reporting 19 people under this policy. You don't know what is 20 going to happen. We will handle these things on our 21 own." 22 That is what Audrey Stone said. 23 As a matter of fact, Audrey Stone defended 24 employees that had violations of the social media 25 policy, including an employee that called other</p>

<p style="text-align: right;">Page 265</p> <p>1 employees "fucktard" and an employee that said 2 somebody should be killed. 3 I mean, a variety of just pretty strong -- 4 and what was the defense? The defense was, they 5 were engaging in union activities, spirited passion, 6 election communications. 7 But that apparently doesn't work when 8 you're opposed to the union -- by the way, the 9 people she was defending were always union 10 supporters. 11 So, by the way, also at this time, the 12 Union is communicating with Southwest management. 13 Senior Southwest management, not somebody down here. 14 Somebody up here. Like the second, third top 15 executives at Southwest Airlines. 16 And what are they saying? They are 17 saying, You know, we really should use this social 18 media policy to target some people, get rid of these 19 employees we don't like. We should target them. 20 Okay, wait a minute. I didn't say it 21 right. They said, Target for assassination. It is 22 that strong. It is stronger than what I said. They 23 are going to target these employees for 24 assassination. 25 Most of them are people involved in the</p>	<p style="text-align: right;">Page 266</p> <p>1 recall, as Ms. Carter was. One is a union member, 2 not an officer yet. I don't even think she was in 3 the recall petition. And they are targeting her 4 because they think she could be a leader in the 5 future that could threaten the current leadership of 6 the union, and we need to get rid of her. And they 7 are telling that to Southwest management. 8 Who is she? She's someone that they say, 9 Well, she could appeal to certain members of the 10 union, and we need to stop that. 11 Why did they say that? She was 12 Africa-American. 13 This is going on. This is what Charlene 14 is faced with on February 22, 2017. 15 So also on February 22, 2017, that very 16 same day, the Union, one of the insiders of her 17 team, files a bunch of dossiers. They went through 18 the social media of all of the recall supporter 19 leaders they could find, and they sent it to 20 Southwest and said, These are -- these are people 21 that should be punished under the social media 22 policy. 23 This is the Union using the social media 24 policy. And they had talked about it with Mike 25 Hafner, the senior guy I was telling you about.</p>
<p style="text-align: right;">Page 267</p> <p>1 They talked about it with Sonya Lacore, another 2 senior person at Southwest Airlines. 3 By the way, on February 22, 2017, Sonya 4 Lacore sends out a "read before you fly" to every 5 flight attendant. 6 And what does she talk about? She talks 7 about social media policy and workplace bullying, 8 the two policies they fired Charlene on. 9 It is just coincidence it all happened on 10 February 22, 2017. 11 Southwest investigates this, and Ed 12 Schneider is the person they say made the decision. 13 And you will see his notes. He 14 acknowledges she's engaged in exercising her 15 religious beliefs. He acknowledges she's engaged in 16 union activity. No accommodation is given for that. 17 I'm going to mention accommodation for a 18 moment, and I think the judge will instruct you on 19 this. 20 When you are dealing with a religious 21 belief claim, the employee doesn't have to ask for 22 an accommodation, the company has to give it. 23 Charlene didn't know to use the word 24 "accommodation" when she went and met with them, but 25 she told them about her beliefs and why she felt she</p>	<p style="text-align: right;">Page 268</p> <p>1 needed to do this. 2 And they didn't say anything about 3 accommodation, never granted her one, never talked 4 about the fact that there should be some 5 understanding that what she was doing was union 6 activity and religious belief. 7 No, they wanted to fire Charlene, and they 8 did. 9 Okay. I want to talk a little bit about 10 what Southwest and the Union might talk to you 11 about. And we think this is a lot of misdirection, 12 but this is not -- you will be able to follow this. 13 They can -- I think they will try to 14 confuse this, but it won't work. 15 Okay. One thing they will say, no 16 evidence. Charlene doesn't have any evidence we 17 were intentionally discriminating against her 18 because of her religious belief. We were just 19 trying to enforce our social media policy. 20 They will say, Do you know if Ed Schneider 21 discriminated against you? 22 And she will say, No, except that I got 23 fired. 24 And so what they are saying is, Oh, so you 25 don't know what Ed Schneider was thinking.</p>

<p style="text-align: right;">Page 269</p> <p>1 That is not the way it works. You can't 2 sue someone for what they are thinking. You could 3 all be thinking really horrible things about me 4 right now, I would never know. And that is the same 5 in this situation. What you sue people for are 6 their actions, and their actions reveal their 7 thoughts. 8 But you don't really need their thoughts. 9 They fired her because she exercised her 10 union rights. They fired her because she exercised 11 her religious beliefs. 12 They will say, Well, this was over the 13 top. 14 There is no over-the-top exception to free 15 speech. There are numerous exceptions to free 16 speech. And the same thing for religious belief and 17 union activity. 18 Illegal conduct. Defamation. Libel. So 19 there are all kind of things. But otherwise, your 20 free speech, your religious freedoms, you should be 21 able to exercise them. 22 By the way, she didn't do it at work. She 23 did it on her personal Facebook page. 24 So by the way, this over the top, this is 25 really graphic, they're going to show you a picture</p>	<p style="text-align: right;">Page 270</p> <p>1 of this baby or fetus in opening, and it makes the 2 point of what's the best way to communicate your 3 position. 4 In our country, when something bad 5 happens, we all get upset. When something bad 6 happens and it's on video, things change. 7 And Charlene wanted change, and she wanted 8 to change her union. And they want to take away her 9 right to use the most effective speech possible. 10 I think they will try and distance 11 themselves from some people that had these 12 communications with upper Southwest management. 13 One of them is an officer of the Union, 14 Mr. Nevarez. The other one is Brian Talburt, who 15 was in her inner circle. 16 You will see that she was -- they were 17 acting on behalf of the Union. 18 They will say, Well, we didn't fire all of 19 these recall -- all these recall people that came 20 in, we didn't fire them. 21 You know, that is -- well, they fired 22 Charlene. They reprimanded Jeanna Jackson, one of 23 the recall people. They reprimanded Greg Hofer. 24 You don't have to get them all, you get enough, you 25 will get the desired result of making these people</p>
<p style="text-align: right;">Page 271</p> <p>1 shut up. 2 Okay, nexus. I want to talk to you about 3 nexus. 4 So they say, Okay. So maybe Charlene was 5 engaged in union activity when she sent that to her 6 Union president. Maybe that was religious activity. 7 But she posted that video on her personal Facebook 8 page, and people could get confused and think that 9 she was actually speaking on behalf of Southwest 10 Airlines. 11 And because of that, there is a nexus, and 12 we fire her for violating our social media policy. 13 Let's look at the nexus. 14 By the way, that nexus, let's see what 15 evidence they put on about all of the people at the 16 Women's March, there is no doubt about nexus. It 17 was posted the next day, says Southwest Airlines. 18 They didn't do that, but they fired Charlene. 19 So here is the nexus. They have a rule 20 that wherever it's social media policy, Okay. We 21 will look back about 18 months. Not about. 18 22 months. 23 And so they go to Charlene's Facebook page 24 and they are looking for a nexus, something that 25 would say she's acting on behalf of Southwest</p>	<p style="text-align: right;">Page 272</p> <p>1 Airlines. They can't find it. 2 And there is -- Denise Gutierrez sends an 3 email saying, What do I do? I can't find it. 4 What do they do? Let's just go a little 5 bit past 18 months. Let's go a year. Oh, no, let's 6 another year. Let's go another year. 7 They go years back, three, four -- I think 8 one of them is five years, to say, Ah, this is the 9 connection to Southwest Airlines. 10 So what do they find, three, four years 11 ago, from this post? She is standing in a cockpit 12 of Southwest Airlines in her uniform. So that 13 picture -- 14 By the way, you can't do it. You'd have 15 to scroll for 15 or 20 minutes really working at it 16 to get there. And that is telling the world that 17 that Charlene Carter is taking a position on behalf 18 of Southwest Airlines such that people would be 19 confused. 20 So we've got to fire you for that. 21 Okay. I have two others. 22 One is -- I'm not sure when this picture 23 was, but it doesn't show anything. One of them is 24 her standing with friends and she's getting her 25 picture taken and she's wearing a lanyard, she's got</p>

<p style="text-align: right;">Page 273</p> <p>1 this thing around, it's this little plastic thing 2 that's got something in it. 3 And they say, We know that is a Southwest 4 Airlines lanyard. 5 You can blow it up. The world is not 6 going to know it. You can't tell anything from it. 7 This is the straws they are grasping at to look for 8 a nexus to fire someone that was opposed to the 9 Union. 10 So they had one other where she has her 11 Southwest Airlines sticker, I don't know how many 12 years ago this one was, and an emblem under it that 13 relates to support for America and Israel that she 14 started wearing after 9/11. It was absolutely no 15 problem with her company. 16 But they are going to use that now from 17 years ago to say, We are going to fire you today for 18 this. 19 So there is no nexus, and she's entitled 20 to post on her personal Facebook page. 21 They will say, Well, Charlene was an 22 objector. There is nothing Audrey Stone, president 23 of the Union, can do to her because she's not in the 24 Union. So the only thing she can do is go to 25 Southwest Airlines and ask for help.</p>	<p style="text-align: right;">Page 274</p> <p>1 Well, first of all, it wasn't an 2 employment communication, so she shouldn't be going 3 to Southwest Airlines. 4 And Audrey Stone, president of the Union, 5 reported other people that weren't objectors, like 6 Jeanna Jackson. 7 What did she report Jeanna Jackson for? 8 This is -- it is hard to -- you can't make 9 this up. 10 Jeanna Jackson told union members, Our 11 Union president is bringing charges against union 12 members. 13 Something you would want to know if you 14 were a union member about your president. 15 And the president of the union reports her 16 for that and Southwest Airlines reprimands her. 17 Takes the charges. So she -- she is reporting these 18 people for other reasons. 19 You can take people to the police. She 20 says that Charlene threatened her. You read these. 21 Charlene was upset that Ms. Stone was the 22 president and continued to be paid and not have to 23 work at American Airlines, and she was constantly 24 complaining about the salary, constantly, a few 25 times.</p>
<p style="text-align: right;">Page 275</p> <p>1 So at the end of one of her posts, she 2 says, basically, I can't wait for the recall 3 petition to be successful. Can't wait to see you 4 online. 5 That's a common phrase, "see you online," 6 among flight attendants. 7 And it was saying, I'm going to be glad 8 that you are no longer being paid and you have to 9 work like the rest of us. 10 Audrey Stone is going to tell you that was 11 a threat. I will show you documents from Audrey 12 Stone where she uses that phrase, and I don't think 13 she was intending to threaten people. 14 They could block her. 15 The other thing that the Union could have 16 done is, they could have banned her. And that would 17 be significant to Charlene. She wants to go back 18 there. She wants to go back to her job. She wants 19 to go back to her union some day. She still wants 20 her union to start doing union things and not all of 21 these other things. 22 And when that happens, she looks 23 forward -- she will still pay dues, but she looks 24 forward to being a member. 25 So there are a lot of things they can do.</p>	<p style="text-align: right;">Page 276</p> <p>1 They will say, Charlene didn't know 2 Ms. Stone's beliefs, she didn't know Ed Schneider's 3 beliefs, and so why would she be sending these 4 things to them? 5 That is the point. She's sending it to 6 the Union president. She's not -- not that she's 7 not interested, but the point is not is what Audrey 8 Stone's personal opinion, what as president of the 9 union are you doing regarding this issue? 10 All right. We are on a clock here, by the 11 way, and I know it's hard being preached to for so 12 long. I'm almost done. 13 Damages. Charlene has been out of a job 14 for five years. She tried to get a job at other 15 airlines. It was difficult. She didn't get hired. 16 And part of it was during COVID. So there is 17 reasons. 18 They will say -- by the way, that is back 19 pay. They should have been paying her for the past 20 five years. 21 And they will tell you, Well, those last 22 couple of years she didn't work very much. She only 23 worked four or five flights. 24 Which is perfectly appropriate under the 25 Collective Bargaining Agreement. But let's see if</p>

<p style="text-align: right;">Page 277</p> <p>1 they tell you why she didn't.</p> <p>2 Okay. So she's -- but she's more than</p> <p>3 ready, willing and able to go back to work full</p> <p>4 time, wants to get her job back. She's suffered</p> <p>5 emotional distress because of this. She had to go</p> <p>6 to counseling. We will tell you about all of that.</p> <p>7 I think that is all very important. I</p> <p>8 think she's entitled to a significant amount of</p> <p>9 money here.</p> <p>10 But Charlene wants you to protect her</p> <p>11 religious freedom. You don't have to agree with</p> <p>12 her, but protect her rights. She wants you to</p> <p>13 protect her rights and others that want to complain</p> <p>14 about their union and effect change. That is what</p> <p>15 she wants protection from.</p> <p>16 If, at the conclusion of this, you think</p> <p>17 that these actors over here did what I have been</p> <p>18 talking to you about, we are going to ask you to</p> <p>19 award punitive damages. It is going to take a</p> <p>20 significant amount of money to get these people to</p> <p>21 change.</p> <p>22 Thank you.</p> <p>23 THE COURT: Thank you, Mr. Pryor.</p> <p>24 MR. McKEEBY: Sidebar.</p> <p>25 (Thereupon, the following proceedings were</p>	<p style="text-align: right;">Page 278</p> <p>1 had at sidebar:)</p> <p>2 THE COURT: I was just making sure.</p> <p>3 MR. McKEEBY: I'm sorry.</p> <p>4 THE COURT: Good to go? Do you need a</p> <p>5 sidebar?</p> <p>6 MR. GREENFIELD: Brief objections.</p> <p>7 His reference to fiduciary duty, duty</p> <p>8 being the highest obligation in the law, it's not</p> <p>9 the case. There is lots of legal standards that are</p> <p>10 higher than fiduciary obligation.</p> <p>11 And making reference to a free speech</p> <p>12 claim does not exist in this case. He's talking</p> <p>13 about specific free speech. There is no government</p> <p>14 entity, there is no free speech claim.</p> <p>15 THE COURT: What I can say is, Everything</p> <p>16 you've heard is lawyer argument. Remember, the</p> <p>17 evidence is yet to come in, and as to the law, I</p> <p>18 will give you the law at the end of the case.</p> <p>19 Any objection to that? I will say that</p> <p>20 and then give you the baton.</p> <p>21 (Thereupon, the sidebar was concluded and</p> <p>22 the following proceedings were held in open</p> <p>23 court:)</p> <p>24 THE COURT: Okay. Just a brief reminder</p> <p>25 before Mr. McKeeby goes, is everything you heard was</p>
<p style="text-align: right;">Page 279</p> <p>1 not evidence, it was a preview of the evidence they</p> <p>2 expect; and any references to the law, remember, I</p> <p>3 will give you the relevant law at the end of the</p> <p>4 case.</p> <p>5 With that, Mr. McKeeby is going to open</p> <p>6 for Southwest Airlines.</p> <p>7 MR. McKEEBY: Thank you.</p> <p>8 Good to see everyone and good to see you</p> <p>9 without the plexiglass today.</p> <p>10 My name is Paulo McKeeby, and I represent</p> <p>11 Southwest Airlines.</p> <p>12 There was a lot of discussion yesterday</p> <p>13 and today, as well, about religious freedom.</p> <p>14 And religious freedom is important to</p> <p>15 Southwest. It is important to anyone. And that</p> <p>16 involves the right to pray to the God of your</p> <p>17 choosing. It involves the right, in some</p> <p>18 circumstances, to express your religious beliefs.</p> <p>19 But freedom of religion also involves the</p> <p>20 freedom to be free from others forcing their</p> <p>21 religious beliefs on you, particularly when that is</p> <p>22 done in a harassing, bullying, intimidating manner,</p> <p>23 as was the case with Ms. Carter and her</p> <p>24 communication to Ms. Stone.</p> <p>25 And particularly, they have talked about</p>	<p style="text-align: right;">Page 280</p> <p>1 free speech and freedom of religion. We are talking</p> <p>2 about the workplace here. We are talking about</p> <p>3 communications between one employee and another</p> <p>4 employee.</p> <p>5 They want to talk about Ms. Stone as the</p> <p>6 president of the Union. She was the president of</p> <p>7 the Union, but she was also a flight attendant, a</p> <p>8 fellow employee of Ms. Carter, who was entitled to</p> <p>9 the benefits of Southwest's policies just as much as</p> <p>10 any other employee was, including Ms. Carter.</p> <p>11 Ms. Carter was not terminated for the</p> <p>12 beliefs in her mind about her religion, which</p> <p>13 Southwest -- we are not saying that those aren't</p> <p>14 valid or that she didn't sincerely believe those</p> <p>15 beliefs. She was terminated for what she did.</p> <p>16 She was terminated for her conduct, and</p> <p>17 that conduct was sending videos of aborted fetuses</p> <p>18 or babies, depending on your perspective, to a</p> <p>19 co-employee. That is not acceptable and that is why</p> <p>20 Ms. Carter was terminated.</p> <p>21 She won't accept responsibility for her</p> <p>22 conduct. That is partly why we are here today.</p> <p>23 But Southwest had a responsibility as</p> <p>24 well, and that responsibility was to protect its</p> <p>25 employees from that kind of conduct. And that's why</p>

<p style="text-align: right;">Page 281</p> <p>1 Ms. Carter was terminated.</p> <p>2 Let me introduce some of the other folks</p> <p>3 at my table. Brian Morris is here. He's my</p> <p>4 colleague at my law firm.</p> <p>5 Meggan Jones is with Southwest Airlines.</p> <p>6 She's our corporate representative.</p> <p>7 You will hear from her later in the case</p> <p>8 as a witness.</p> <p>9 Also, you will see Chris Maberry. He's</p> <p>10 Southwest's in-house counsel.</p> <p>11 And Lauren Bobis-Armstrong is also with</p> <p>12 Southwest's legal department.</p> <p>13 And last, but definitely not least, is</p> <p>14 Kate McKinney, our technical person. And I</p> <p>15 introduce her now because I would like her to</p> <p>16 commence the PowerPoint.</p> <p>17 Let's talk about what the evidence will</p> <p>18 show in this case.</p> <p>19 First, the evidence will show that Ms.</p> <p>20 Carter was terminated for violating multiple</p> <p>21 Southwest policies.</p> <p>22 And this is what she did to violate those</p> <p>23 policies. These are still photographs of the videos</p> <p>24 that Ms. Carter sent to Ms. Stone. We will show you</p> <p>25 the videos during the course of the evidence, but</p>	<p style="text-align: right;">Page 282</p> <p>1 these are the still shots.</p> <p>2 This is what she sent to Ms. Stone. This</p> <p>3 is what she posted on her Facebook page.</p> <p>4 Let's talk about Southwest's social media</p> <p>5 policy.</p> <p>6 Obviously, you can't read the policy, but</p> <p>7 I have highlighted a couple terms.</p> <p>8 Content that can be disrespectful,</p> <p>9 malicious, harassing violates the social media</p> <p>10 policy; and also, content that could be viewed as</p> <p>11 damaging to Southwest's public perception.</p> <p>12 We will talk about that in just a moment.</p> <p>13 And the policy makes clear that violations</p> <p>14 of the policy can result in termination.</p> <p>15 There is going to be no dispute that</p> <p>16 Ms. Carter was aware of this policy. All employees</p> <p>17 receive this policy. All employees sign off on this</p> <p>18 policy. It tells employees what the expectations</p> <p>19 are with respect to social media posting.</p> <p>20 Let's talk about that middle bullet, the</p> <p>21 content being viewed as damaging, could be viewed as</p> <p>22 damaging to the public perception.</p> <p>23 On Ms. Carter's Facebook post were</p> <p>24 pictures like this of her in her Southwest uniform.</p> <p>25 Like this. Referencing the company's CEO, former</p>
<p style="text-align: right;">Page 283</p> <p>1 CEO and founder.</p> <p>2 So clearly someone who viewed, a member of</p> <p>3 the public who viewed her Facebook page, could see</p> <p>4 that she was an employee of Southwest Airlines and</p> <p>5 could see the videos that you are going to be shown</p> <p>6 in this case.</p> <p>7 And Southwest had the legitimate</p> <p>8 contention under its social media policy that that</p> <p>9 harmed its reputation, it harmed its public</p> <p>10 perception, and yes, it was a factor in her</p> <p>11 termination.</p> <p>12 Let's also talk about Southwest's bullying</p> <p>13 and hazing policy. That's another workplace policy</p> <p>14 where bullying and hazing is defined as malicious</p> <p>15 and unwelcome or severe mistreatment that harms,</p> <p>16 intimidates, offends, or humiliates an employee.</p> <p>17 And it also includes the concept of cyberbullying.</p> <p>18 So it incorporates to some degree the social media</p> <p>19 policy.</p> <p>20 And it also, like the social media policy,</p> <p>21 specifically warns employees, we take this seriously</p> <p>22 at Southwest. And you are going to hear about</p> <p>23 Southwest's culture of respect amongst its employees</p> <p>24 and how important that is to Southwest.</p> <p>25 And so employees are warned, Look, if you</p>	<p style="text-align: right;">Page 284</p> <p>1 bully and haze your coworkers, it could result in</p> <p>2 discipline up to and including termination.</p> <p>3 The evidence will also show that Southwest</p> <p>4 did not terminate Ms. Carter because of her</p> <p>5 religious beliefs.</p> <p>6 As you are all aware, Southwest is a large</p> <p>7 company. They run an airline. They are not in the</p> <p>8 business of discriminating against employees because</p> <p>9 of their religion. They frankly don't care in terms</p> <p>10 of religious beliefs because they know that they</p> <p>11 have a diverse workforce and they are going to have</p> <p>12 employees of all different faiths among its</p> <p>13 workforce.</p> <p>14 You will hear from the employees who</p> <p>15 participated in the investigation of Ms. Stone's</p> <p>16 complaints and you will hear about the religious</p> <p>17 views of those individuals.</p> <p>18 From Ed Schneider, from Maureen Emlet.</p> <p>19 Those people are Christian, just like Ms. Carter,</p> <p>20 and they also have similar views regarding abortion</p> <p>21 as Ms. Carter.</p> <p>22 You will hear from those witnesses, and</p> <p>23 you should ask yourself, are these people really</p> <p>24 going to take action against Ms. Carter based on</p> <p>25 what is in her mind? No.</p>

<p style="text-align: right;">Page 285</p> <p>1 The termination was based on her conduct, 2 what she did with respect to sending those videos to 3 Ms. Stone. 4 The evidence will also show that 5 Ms. Carter was not terminated based on her 6 opposition to the Union. You are going to hear, and 7 you have already heard, a lot about the historic 8 dispute between Ms. Carter and perhaps others and 9 the Union. And what you have to understand, first 10 of all, is that Southwest and the Union are 11 separate. 12 That's one reason why the Union has 13 separate counsel and is a different party in this 14 case. The Union has different bylaws, the Union has 15 different guidelines, the Union has different 16 leadership, different payroll. They are not the 17 same as Southwest Airlines. 18 And when the Union wants to do something, 19 like, oh, by the way, go on a Women's March in 20 Washington, they don't ask Southwest to sponsor or 21 approve that because it's separate from Southwest. 22 They do it. 23 So Southwest didn't have a dog in that 24 fight or a role in their -- in their participation 25 in the Women's March other than to provide them</p>	<p style="text-align: right;">Page 286</p> <p>1 transportation, which Southwest is contractually 2 obligated to do under the Collective Bargaining 3 Agreement. 4 Southwest simply did not have a dog in the 5 fight with respect to Ms. Carter's disputes with the 6 Union, as the evidence will show. 7 And moreover, just as the people who were 8 involved in the decision to ultimately terminate her 9 employment, they had no idea of Ms. Carter's 10 religious beliefs. They also did not know about 11 Ms. Carter's disputes with the Union until the 12 investigation. 13 The people who conducted the 14 investigation, Mr. Schneider, the Denver-based 15 manager, he didn't -- he had never met, had never 16 spoken to Audrey Stone, the union president. He had 17 motivation to protect her or to treat her 18 differently than anyone else, any other employee. 19 And, again, Ms. Carter wasn't someone 20 that, frankly, Mr. Schneider had to think about 21 because she wasn't working. She took three flights 22 during the year prior to her termination. 23 Southwest got involved in this dispute and 24 in Ms. Carter's dispute with the Union when 25 Ms. Stone, the Union president -- I think you are</p>
<p style="text-align: right;">Page 287</p> <p>1 going to hear every time from counsel for 2 Ms. Carter, every time they refer to Ms. Stone, you 3 are going to hear "the Union president" -- she was 4 also a fellow employee. Do not forget about that. 5 Ed Schneider didn't forget about that when 6 he conducted the investigation, and Southwest didn't 7 become involved in this until Ms. Stone made her 8 complaint. And when that happened, that triggered a 9 process. 10 So the evidence will also show that 11 Southwest conducted a fair and thorough 12 investigation. It was a three-week investigation 13 involving multiple different departments and 14 different people from whom you will hear during the 15 course of this trial. 16 You will hear from Maureen Emlet in labor 17 relations; you will hear from Ms. Jones, the 18 assistant base manager at the time; and you'll hear 19 from Denise Gutierrez in employee relations, all of 20 whom who had a role in the investigation and 21 ultimate decision with respect to Ms. Carter's 22 termination. 23 Ms. Carter had the opportunity to tell her 24 side of the story during the investigation. This 25 wasn't just a matter of the company talking to</p>	<p style="text-align: right;">Page 288</p> <p>1 Ms. Stone, the company talked to Ms. Carter, first, 2 in what will be referred to as a fact-finding 3 meeting over which Mr. Schneider presided. 4 And he asked Ms. Carter, Why did you do 5 this? What is your side of the story? 6 And Ms. Carter was given that opportunity. 7 And then there was something that you will 8 hear about called a Step 2 hearing. It gave 9 Ms. Carter the opportunity to, again, tell her side 10 of the story, to yet another layer of Southwest 11 management. This time a gentleman by the name of 12 Michael Sims who you'll hear from. 13 MR. PRYOR: May I approach? I have an 14 objection. 15 THE COURT: Same objection we discussed 16 previously? 17 MR. PRYOR: This is -- we haven't gotten 18 to that one yet but... 19 THE COURT: Okay. Hold on. Sidebar, no 20 speaking objections. 21 (Thereupon, the following proceedings were 22 had at sidebar:) 23 THE COURT: Better be good. 24 MR. PRYOR: I thought you were about the 25 last call. I'm talking about what he's talking</p>

<p style="text-align: right;">Page 289</p> <p>1 about now.</p> <p>2 Step 2 is not her opportunity to be heard</p> <p>3 on this. And you gave a limine that they could talk</p> <p>4 about the Union did its job in Step 2 but Step 2 is</p> <p>5 not part of this case nor is the arbitration.</p> <p>6 MR. GREENFIELD: Which is absolutely</p> <p>7 directly related to --</p> <p>8 THE COURT: What number do you think?</p> <p>9 MR. PRYOR: I'm sorry?</p> <p>10 THE COURT: What limine number do you</p> <p>11 think I limined it out?</p> <p>12 MR. PRYOR: I have to --</p> <p>13 THE COURT: Can you go find it?</p> <p>14 MR. PRYOR: I can find it. I wasn't aware</p> <p>15 that limined. I will look. I will look. Thirty</p> <p>16 seconds.</p> <p>17</p> <p>18 MR. McKEEBY: Your Honor, it is part of</p> <p>19 the process. It is part of the investigation.</p> <p>20 THE COURT: So I limined out the</p> <p>21 arbitration ruling itself.</p> <p>22 MR. PRYOR: Twelve.</p> <p>23 THE COURT: I have got it.</p> <p>24 Yeah, okay.</p> <p>25 I didn't limine that out. What I limined</p>	<p style="text-align: right;">Page 290</p> <p>1 out was the actual arbitration ruling and any</p> <p>2 testimony that gets in depth discussions of the</p> <p>3 arbitration agreement. The last chance agreement,</p> <p>4 Step 2 still comes in for the purpose under 408.</p> <p>5 MR. PRYOR: Maybe I misunderstood.</p> <p>6 The Step 2 and arbitration had everything</p> <p>7 to do with the claims that she's making here. That</p> <p>8 is what he's arguing, that she had her chance to</p> <p>9 raise these issues, that is not where she had the</p> <p>10 chance. This is where she had --</p> <p>11 MR. GREENFIELD: You can argue that.</p> <p>12 THE COURT: You can clean that up and</p> <p>13 obviously at some point later on in the proceeding</p> <p>14 when we have the arbitration agreement that does not</p> <p>15 come in. I can tell the arbitrator is looking at</p> <p>16 different issues than you are looking at here.</p> <p>17 MR. PRYOR: You are overruling my</p> <p>18 objection?</p> <p>19 THE COURT: Well, you shouldn't have this</p> <p>20 objection now.</p> <p>21 So what I can do, at the end, I can say,</p> <p>22 look, you will hear from me more fully at the end of</p> <p>23 the case.</p> <p>24 MR. PRYOR: Okay. Well, I have another</p> <p>25 conference after. I just need to make a record on</p>
<p style="text-align: right;">Page 291</p> <p>1 it.</p> <p>2 THE COURT: I think you already have.</p> <p>3 MR. PRYOR: Okay. I didn't get a ruling.</p> <p>4 THE COURT: I'm overruling your objection.</p> <p>5 MR. PRYOR: Okay. That's fine.</p> <p>6 THE COURT: What I'm going to say at the</p> <p>7 end of this, I'm going to say, well, the facts and</p> <p>8 law, you haven't heard any of the facts and the law</p> <p>9 you will hear from me.</p> <p>10 MR. PRYOR: I'm not trying to be</p> <p>11 difficult. I wanted to make sure.</p> <p>12 THE COURT: I understand.</p> <p>13 (Thereupon, the sidebar was concluded and</p> <p>14 the following proceedings were held in open</p> <p>15 court:)</p> <p>16 THE COURT: Okay. Sorry, Mr. McKeeby.</p> <p>17 You can continue.</p> <p>18 MR. McKEEBY: Thank you, your Honor.</p> <p>19 So where was I? The Step 2 hearing</p> <p>20 presided over by Michael Sims, whom you will hear</p> <p>21 from.</p> <p>22 Another opportunity for Ms. Carter to tell</p> <p>23 her side of the story to another member of</p> <p>24 Southwest's executive team.</p> <p>25 Mr. Sims agreed with the decision of</p>	<p style="text-align: right;">Page 292</p> <p>1 Mr. Schneider to terminate Ms. Carter's employment</p> <p>2 based on her conduct. Based on the videos that she</p> <p>3 sent to Ms. Stone and based on her other conduct.</p> <p>4 And normally, that would be the end of my</p> <p>5 presentation and I would shuffle back to my table</p> <p>6 and sit down. But this case is different for</p> <p>7 another reason.</p> <p>8 At the end of the Step 2 hearing, Mr. Sims</p> <p>9 had a decision to make. He had different options.</p> <p>10 And he'll tell you about those options when he gets</p> <p>11 on the witness stand.</p> <p>12 He could either uphold the termination</p> <p>13 without reservation, he could rescind the</p> <p>14 termination or he could adopt a middle ground.</p> <p>15 Now, during the Step 2 hearing, Ms. Carter</p> <p>16 said, I love the company. I love Southwest. I love</p> <p>17 my job. What I want is my job back, and she</p> <p>18 appeared for the first time in this process, she</p> <p>19 appeared remorseful, she appeared to recognize that</p> <p>20 she had stepped over the line by sending those</p> <p>21 graphic videos to Ms. Stone.</p> <p>22 Because of all of that and because she was</p> <p>23 a long-term employee, Mr. Sims said, you know what,</p> <p>24 let's give her a second chance. Let's go ahead and</p> <p>25 give her her job back.</p>

<p style="text-align: right;">Page 293</p> <p>1 And that was presented to Ms. Carter by 2 Mr. Sims at the end of the Step 2 hearing. 3 Now, you're probably asking yourself, 4 well, okay, what are we doing here then? 5 Ms. Carter turned down the offer of 6 reinstatement. 7 And so the last thing the evidence will 8 show, ladies and gentlemen, is that Ms. Carter quit 9 on Southwest by refusing that offer. 10 She's going to have an explanation for why 11 she did that. She's going to talk about the 12 conditions that were associated with the last chance 13 agreement that she was presented, that a document 14 would be in her file for two years, that, ladies and 15 gentlemen, required her to comply with Southwest's 16 policies. 17 That is what she had to do, comply with 18 Southwest's policies. 19 She gave up her right to backpay for the 20 few weeks that the investigation occurred when she 21 wouldn't have been flying anyway. That was no 22 concession. She wasn't going to be flying during 23 that period anyway. 24 Mike Sims fully expected Ms. Carter to 25 say, thank you, I will take my job back because that</p>	<p style="text-align: right;">Page 294</p> <p>1 is what she said during the Step 2 hearing. I love 2 the company. I want my job back. 3 And Mr. Sims said, you know what? Look, 4 she's showing some remorse, she wants her job back, 5 I will give her the chance. And he's shocked when 6 he found out through the union that it wasn't good 7 enough for Ms. Carter. It is another example of her 8 unwilling to accept responsibility for her actions 9 and for her conduct. 10 So to summarize very briefly, Ms. Carter 11 was not -- was terminated because she violated 12 company policy by sending those videos, as well as 13 other conduct that we will talk about. 14 Southwest did not terminate Ms. Carter 15 because of her religious beliefs. There will be no 16 evidence before you that any of these decision 17 makers thought less of Ms. Carter because she was a 18 Christian. They were Christians too. 19 And they did not terminate Ms. Carter 20 because of her longstanding dispute with the Union. 21 The Southwest employees involved in this 22 decision frankly didn't care. They deal with the 23 union. They don't care who the union leadership is. 24 Mr. Schneider, who will you hear from, who 25 was the primary original decision maker after the</p>
<p style="text-align: right;">Page 295</p> <p>1 fact finding meeting, had never spoken to Audrey 2 Stone prior to that investigation. 3 And you will hear about the investigation 4 that it was thorough and that it was fair and it 5 gave the opportunity for Ms. Carter to be heard on 6 two occasions during the fact finding meeting and 7 during the Step 2 hearing. 8 And then, finally, you will have to ask 9 yourself, why did Ms. Carter not accept that job 10 that she said she wanted. 11 Thank you, ladies and gentlemen. 12 THE COURT: Thank you, Mr. McKeeby. 13 MR. POSTMAN: Can we do our objections? 14 THE COURT: Yes. 15 (Thereupon, the following proceedings were 16 had at sidebar:) 17 MR. PRYOR: Your Honor, in addition to the 18 objection previously raised, we object to the 19 mention of the last chance agreement. It is not a 20 mitigation of damages, which is, as the Court's 21 limine ruling. 22 Now, mitigation of damages does not 23 require -- you don't have to mitigate if it requires 24 you to give up your rights. She had to give up her 25 rights of free speech, or religion, her union</p>	<p style="text-align: right;">Page 296</p> <p>1 activities, backpay, release the company. That is 2 not a mitigation of damages document. 3 And I have not been able to address it 4 because if I raised it first, I waive it. All 5 right. And it being talked about in openings is 6 inappropriate. It is inappropriate evidence. 7 The other objection is Rule 404(a)(1), 8 talking about Southwest Airlines's employees 9 religious beliefs. 404(a)(1) specifically says, 10 Character evidence is not permitted to show what you 11 did here as a trade of what you did for something 12 else. That is what he's arguing. 13 Those are my additional objections. 14 THE COURT: Response? 15 MR. McKEEBY: Your Honor, on the last 16 chance agreement, I mean, the issue of 17 reasonableness is obviously critical to mitigation, 18 so if having to give up her rights made the refusal 19 to accept the offer reasonable, then that is 20 something that they can put in through their 21 witness. 22 Ms. Carter can say, Here's why I didn't 23 sign it. I thought it was unreasonable. I didn't 24 want to give up my rights. And the jury -- 25 MR. PRYOR: Which is claiming --</p>

<p style="text-align: right;">Page 297</p> <p>1 THE COURT: Understood.</p> <p>2 I think it comes up under 408. I think he</p> <p>3 still has a path to argue that. I don't think it</p> <p>4 is, as a matter of law, points that there is failure</p> <p>5 to mitigate.</p> <p>6 MR. PRYOR: So I think it is a matter of</p> <p>7 law point and I don't think it is a gray area. But</p> <p>8 we can't raise it ourselves to respond to it until</p> <p>9 they do it in evidence.</p> <p>10 THE COURT: Sure.</p> <p>11 MR. GREENFIELD: Your Honor, if I may add</p> <p>12 to that because I think that last chance agreement</p> <p>13 is directly related to the DFR claims against the ^^</p> <p>14 THE COURT: I've already ruled on it,</p> <p>15 so --</p> <p>16 MR. GREENFIELD: Okay.</p> <p>17 THE COURT: -- I'm sticking to my ruling</p> <p>18 on the 404.</p> <p>19 Is there any argument you want to make in</p> <p>20 response to 404 character evidence? Actually, I</p> <p>21 don't know that I fully understood your 404</p> <p>22 argument.</p> <p>23 MR. PRYOR: I'm sorry?</p> <p>24 THE COURT: I don't know that I fully</p> <p>25 understood your 404 argument. What are you saying ^</p>	<p style="text-align: right;">Page 298</p> <p>1 is the purpose --</p> <p>2 MR. PRYOR: What he has said, he repeated,</p> <p>3 several employees, he said they're Christians, they</p> <p>4 wouldn't do this.</p> <p>5 MR. McKEEBY: Yes.</p> <p>6 MR. PRYOR: They are pro life. They</p> <p>7 wouldn't do this.</p> <p>8 Now, in Rule 404(a)(1) says, you can't use</p> <p>9 character evidence in that manner.</p> <p>10 THE COURT: Well, I'm going to give the</p> <p>11 same instruction that I gave, which is, everything</p> <p>12 you heard is not facts or law, you will hear that</p> <p>13 from me at the end of the case.</p> <p>14 MR. PRYOR: I take it you're overruling</p> <p>15 all my objections.</p> <p>16 THE COURT: No.</p> <p>17 I'm actually saying the way I'm going to</p> <p>18 deal with your second objection is to say that</p> <p>19 everything you've heard, right, the words that came</p> <p>20 out of his mouth are not evidence. 404 is evidence.</p> <p>21 Right?</p> <p>22 So what I'm saying is, if that comes in,</p> <p>23 in a future form, we'll have to deal with it under</p> <p>24 404.</p> <p>25 Here I just say, not evidence, everything</p>
<p style="text-align: right;">Page 299</p> <p>1 you just heard.</p> <p>2 So I'm overruling the last chance</p> <p>3 agreement argument. I'm going to deal with it in a</p> <p>4 curative instruction.</p> <p>5 MR. GREENFIELD: Your Honor, one last</p> <p>6 thing.</p> <p>7 After opening statements, is there a way</p> <p>8 to move the podium? I can only see half of the</p> <p>9 jurors.</p> <p>10 THE COURT: We will be taking a break</p> <p>11 after you do your opening, we can adjust the podium</p> <p>12 if we need to, but it is still tethered to the floor</p> <p>13 with wires, so we will figure that out. Okay. So</p> <p>14 we will go back and I'll give my instruction.</p> <p>15 (Thereupon, the sidebar was concluded and</p> <p>16 the following proceedings were held in open</p> <p>17 court:)</p> <p>18 THE COURT: Okay. As Mr. Greenfield</p> <p>19 approaches, I'm going to give you the same</p> <p>20 instruction that I gave after Mr. Pryor opened,</p> <p>21 which is everything you heard is not evidence. It</p> <p>22 is a preview of what evidence might be.</p> <p>23 It's also not the law. You can only hear</p> <p>24 the law from me, and that will only come to you at</p> <p>25 the end of the case.</p>	<p style="text-align: right;">Page 300</p> <p>1 With that, Mr. Greenfield, you can</p> <p>2 approach the podium and give your opening on behalf</p> <p>3 of Local 556.</p> <p>4 MR. GREENFIELD: I can lean.</p> <p>5 THE COURT: Okay.</p> <p>6 MR. GREENFIELD: I can be here.</p> <p>7 As much as I would like to roam, I can</p> <p>8 stay put.</p> <p>9 Good morning, everyone. It is good to see</p> <p>10 y'all again.</p> <p>11 To remind you, my name is Adam Greenfield,</p> <p>12 along with my co-counsel, Edward Cloutman, III, and</p> <p>13 our corporate representative, Michael Masoni.</p> <p>14 We are here on behalf of Transport Workers</p> <p>15 Union, Local 556.</p> <p>16 You also will see an associate, Daniel</p> <p>17 Dailey, from Kingdom Litigators, in the gallery.</p> <p>18 You might have seen him during jury selection.</p> <p>19 He will be helping me out with various</p> <p>20 computer things because he's just better at that</p> <p>21 than I am, so...</p> <p>22 You have heard a lot about the contentious</p> <p>23 issues between the Union and Ms. Carter and</p> <p>24 Southwest.</p> <p>25 We will hear a lot of about that during</p>

<p style="text-align: right;">Page 301</p> <p>1 the evidence so I don't want to dive into all of 2 that and rehash it at this point. 3 What I would like to focus on is what 4 Ms. Carter's counsel wanted to focus on. Actions. 5 So let's start with actions. 6 This is a case about someone who wants to 7 be able to say whatever she wants, whenever she 8 wants, however she wants to say it. 9 And look, I understand that kind of desire 10 for personal freedom. I do. I think a lot of us 11 do. It can be a pretty natural human feeling. 12 But there are places that exist in most of 13 our lives where we understand that our actions may 14 have consequences, there's a certain level of 15 respect between folks is required. 16 Work is one of those places for a lot of 17 us. 18 At work, where employees are being paid by 19 a company for their work as part of a huge team, 20 like the Southwest flight attendants, you are not 21 solely an individual with your own agenda. 22 How you speak to folks you work with 23 matters. 24 What you say to them or about them 25 matters.</p>	<p style="text-align: right;">Page 302</p> <p>1 How you say it matters. 2 And if an employee makes folks she works 3 with feel traumatized or threatened by her 4 communication, we expect that you jurors will find 5 that federal law does not protect her from the 6 consequences of her actions. 7 Now, this case is also about employee 8 rights. 9 And as I have said, you have heard already 10 a complicated story that will get more layered as we 11 go forward about the competing rights of Southwest 12 employees in the workplace. 13 You will hear about some of these issues 14 that stem way back to 2013. We expect that the 15 evidence will show you that some of these issues 16 that arose earlier come from issues of fraud, and 17 theft, and that is why some of these Union officials 18 were kicked out of office. 19 You will hear, we believe the evidence 20 will show that the recall petition that they have 21 mentioned is also rife with fraud. Signatures of 22 dead people included. 23 But I don't want to get bogged down there. 24 I don't want to talk about Ms. Carter. 25 Charlene Carter's right to speak her mind</p>
<p style="text-align: right;">Page 303</p> <p>1 under Southwest Airlines' social media policy and 2 the other side of it, Audrey Stone's right to not be 3 harassed and threatened by a coworker. 4 Yes, she was president of the Union. Yes, 5 she was always a flight attendant, an employee of 6 Southwest Airlines. 7 I want you to listen to how those rights 8 came into conflict and the steps folks took in 9 pursuit of those rights. 10 Counsel for Southwest talked a bit about 11 that process, fact finding meeting, Step 2 process. 12 Ms. Carter was represented by Union 13 individuals during all of those steps. 14 We expect the evidence to show from 15 Ms. Carter's mouth that she felt the Union 16 represented her excellently during that time period. 17 Plaintiff brings this suit alleging that 18 all other parties involved have conspired against 19 her to violate her rights. And that the assertions 20 or protections of anybody else's rights, like the 21 rights of Ms. Stone, are purely for show. 22 I want you to ask yourselves what Charlene 23 Carter would have been happy with. Short of Audrey 24 Stone continuing to endure her cyberbullying while 25 saying nothing. What would have satisfied</p>	<p style="text-align: right;">Page 304</p> <p>1 Ms. Carter? 2 This is a case about someone who wants to 3 be able to say whatever she wants, whenever she 4 wants, however she wants to say it. 5 We expect the evidence will show that 6 Charlene Carter has been as vocally critical of the 7 Union as she could have possibly been, for years, 8 before her termination. 9 And she was never reported to Southwest 10 Airlines. I want you to listen for how the 11 plaintiff explains her claim that she was retaliated 12 against for her anti-Union speech when all of her 13 previous anti-Union speech went unreported. 14 We expect the evidence will show that it 15 was not until this specifically traumatic and 16 threatening communication that Ms. Stone reported 17 the plaintiff to Southwest Airlines. 18 A line had been crossed. 19 I want you to listen for what the 20 plaintiff claims Ms. Stone should have done instead. 21 I want you think to about what options 22 Ms. Stone had, given that Ms. Carter wasn't a member 23 of the Union, and her harassing conduct only seemed 24 to be escalating. 25 She objected to the Union. She gave up</p>

<p style="text-align: right;">Page 305</p> <p>1 her voice in certain respects.</p> <p>2 As pointed out by Ms. Carter's counsel,</p> <p>3 she couldn't vote in elections, she couldn't go to</p> <p>4 membership meetings.</p> <p>5 So did Ms. Stone have to just stay quiet</p> <p>6 and accept being harassed? Being bullied?</p> <p>7 I want you to listen to whether plaintiff</p> <p>8 offers you any answer other than she has the right</p> <p>9 to say whatever, however and whenever.</p> <p>10 We expect that the evidence will show that</p> <p>11 Ms. Stone was acting in her individual capacity,</p> <p>12 exercising her federally protected rights to be free</p> <p>13 from coworker harassment.</p> <p>14 Ms. Carter is not the only employee whose</p> <p>15 rights deserve to be protected today.</p> <p>16 But more than anything else, I want you to</p> <p>17 think about whether the plaintiff's theory of the</p> <p>18 case makes sense, whether they meet their burden of</p> <p>19 proving that it is more likely than not that every</p> <p>20 single person you hear from, from the Union or</p> <p>21 Southwest Airlines, are lying and are actually</p> <p>22 involved in one huge conspiracy against Charlene</p> <p>23 Carter.</p> <p>24 Because that is what it takes. This was</p> <p>25 what plaintiff is arguing. Make no mistakes. This</p>	<p style="text-align: right;">Page 306</p> <p>1 case is about someone who wants to be able to say</p> <p>2 whatever they want, whenever they want, and however</p> <p>3 they want to.</p> <p>4 Thank you.</p> <p>5 THE COURT: Thank you, Mr. Greenfield.</p> <p>6 Sidebar?</p> <p>7 (Thereupon, the following proceedings were</p> <p>8 had at sidebar:)</p> <p>9 MR. PRYOR: Raise the same objection</p> <p>10 regarding the comments regarding Step 2.</p> <p>11 THE COURT: Understood and overruled.</p> <p>12 And I will give the instruction what you</p> <p>13 heard is not evidence, I just give that after</p> <p>14 everyone, all right? And then I will give them</p> <p>15 their first break and then let's go ahead and put</p> <p>16 the first witness on the stand during the break.</p> <p>17 (Thereupon, the sidebar was concluded and</p> <p>18 the following proceedings were held in open</p> <p>19 court:)</p> <p>20 THE COURT: Okay.</p> <p>21 Same thing that I have told you after</p> <p>22 everyone's opening, everything you heard is not</p> <p>23 evidence, right? And the law comes from me at the</p> <p>24 end of the case.</p> <p>25 So you're about to hear some evidence.</p>
<p style="text-align: right;">Page 307</p> <p>1 We're going to take our morning break, get</p> <p>2 our first witness on the stand, bring you back in</p> <p>3 and then you're going to start hearing evidence.</p> <p>4 So with that, we'll all rise for the jury.</p> <p>5 I'll give you the same three instructions:</p> <p>6 Don't talk to anyone in the courthouse other than</p> <p>7 your jurors and court personnel, and only talk to</p> <p>8 them not about the case. And don't do any research</p> <p>9 on the case.</p> <p>10 Thank you.</p> <p>11 (The jurors exited the courtroom.)</p> <p>12 THE COURT: Okay. We should have them</p> <p>13 back in 10 minutes at 10:46, so let's endeavor to be</p> <p>14 back here a minute or two before that, then we can</p> <p>15 put our first witness on the stand.</p> <p>16 Who will that first witness be?</p> <p>17 MR. PRYOR: Audrey Stone.</p> <p>18 THE COURT: Okay, got it. So we can go</p> <p>19 ahead and bring her in.</p> <p>20 Are there any issues we should talk about</p> <p>21 with the witness not in the room?</p> <p>22 MR. GILLIAM: Not that I know of.</p> <p>23 MR. McKEEBY: Not from Southwest.</p> <p>24 MR. GREENFIELD: Same here, your Honor.</p> <p>25 THE COURT: We are trying to tilt that</p>	<p style="text-align: right;">Page 308</p> <p>1 podium. I'm sorry. It's a big, old podium. Right?</p> <p>2 It is substantial.</p> <p>3 So if you need to like move your chair or</p> <p>4 that table a little bit, we can do that, too. We</p> <p>5 don't care. Everything is moveable to the extent</p> <p>6 the wires permit.</p> <p>7 MR. GREENFIELD: Can I kind of give you</p> <p>8 a --</p> <p>9 THE COURT: You have permission to slide</p> <p>10 as you see fit.</p> <p>11 MR. GREENFIELD: Thank you, your Honor.</p> <p>12 THE COURT: Okay. We will see you in</p> <p>13 about eight minutes.</p> <p>14 Thank you.</p> <p>15 (Recess.)</p> <p>16 THE COURT SECURITY OFFICER: All rise.</p> <p>17 THE COURT: Okay. Let's bring in the</p> <p>18 jury.</p> <p>19 (The jurors entered the courtroom.)</p> <p>20 THE COURT: Okay. You can be seated.</p> <p>21 And Carter can call its first witness.</p> <p>22 MR. HILL: First witness.</p> <p>23 MR. PRYOR: At this time Charlene Carter</p> <p>24 calls Audrey Stone.</p> <p>25 THE COURT: All right. Ms. Stone, you are</p>

<p style="text-align: right;">Page 309</p> <p>1 in the box already. Thank you for being here. 2 If you could stand up and Mr. Frye will 3 administer the oath. 4 (AUDREY STONE was duly sworn by the 5 Clerk.) 6 THE COURT: Okay. You can take a seat. 7 And I have the same questions of every witness, 8 which is, I'm going to ask for some separation 9 between questions and answers. That way if anyone 10 has an objection to the question, I can rule on it 11 before you answer. 12 If I sustain an objection, that means you 13 don't have to answer the question. If I overrule 14 the objection, it means you can go ahead and answer 15 the question. 16 That also let's us keep a clean record for 17 the appellant proceedings, because if two people at 18 the same time, we can't write it down. 19 With that, you can proceed. 20 DIRECT EXAMINATION 21 BY MR. PRYOR: 22 Q. Good morning. 23 A. Good morning. 24 Q. Would you state your name? 25 A. Audrey Stone.</p>	<p style="text-align: right;">Page 310</p> <p>1 Q. Would you speak up? 2 A. Audrey Stone. 3 Q. Ms. Stone, were you Union president of Local 4 556 starting sometime in January '13? 5 A. No. 6 Q. When were you president? 7 A. Starting in June 2013. 8 Q. Can you move the microphone closer to you? 9 THE COURT: I'm turning it up, too. 10 BY MR. PRYOR: 11 Q. When were you president? 12 A. Beginning in June 2013. 13 Q. June 2013. 14 And as Union president and a union member, it 15 was important to you that Southwest Airlines not 16 interfere with union activities, true? 17 A. It depends. 18 Q. So there were some union activities that you 19 wanted Southwest Airlines to interfere with? 20 A. No. Not union activities. 21 Q. All right. 22 That was my question, ma'am. What was the 23 problem? 24 A. I'm sorry. I didn't understand your question. 25 Q. You didn't understand it. I said it very</p>
<p style="text-align: right;">Page 311</p> <p>1 clearly. That is your explanation? 2 A. Yes, sir. 3 Q. Okay. 4 Tell me your confusion again. 5 A. My confusion was about Southwest and union 6 activities and what that meant. And I should have 7 taken more time to -- 8 Q. I'll repeat it exactly again. See if you 9 understand it this time. 10 As Union president and union member, it was 11 important to you that Southwest Airlines not 12 interfere with union activities, true? 13 A. If they were protected union activities, yes. 14 Q. Okay. What is an unprotected union activity? 15 A. There are things that members could choose to 16 do on their own that wouldn't be sanctioned by the 17 union that would not be considered protected union 18 activity. 19 Q. Well, you just defined something that is not 20 union activity. 21 Tell me a union activity that you could engage 22 in that Southwest Airlines, you think it would be 23 appropriate for them to interfere with. 24 A. If it is an official union activity, it 25 wouldn't be.</p>	<p style="text-align: right;">Page 312</p> <p>1 But, again, there are situations where a member 2 may choose to do something and say they are doing it 3 on behalf of the union but it is not union 4 sanctioned. 5 Q. So a union member communicating you -- with you 6 about union activities, that is union activity, 7 right? 8 A. If they are a member, yes. 9 Q. What if they are not a member? What if they're 10 an objector or opt out, that doesn't get protection 11 from your Union? 12 A. No, that is not correct. It just wouldn't be a 13 member communicating with the union. 14 Q. Okay. 15 So let's talk about members, first of all, and 16 members communicating with the Union about union 17 activities. 18 You want Southwest to not be involved in that, 19 true? Or not interfere with it? 20 A. Could you repeat your question, please? 21 Q. What did you hear? 22 A. I heard Union and Southwest involvement, isn't 23 that true. 24 Q. Okay. Answer your question then. I will 25 listen to your answer.</p>

<p style="text-align: right;">Page 313</p> <p>1 A. Can you not repeat your question?</p> <p>2 Q. I have to repeat my question and your question</p> <p>3 that you heard.</p> <p>4 You are under oath today, true?</p> <p>5 A. Yes, sir.</p> <p>6 Q. You agree to answer your questions truthfully</p> <p>7 and without evasion?</p> <p>8 A. Yes, sir.</p> <p>9 Q. From this point forward, will you do that?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Okay.</p> <p>12 So as Union president, it was important that</p> <p>13 when a union member is engaging in communications</p> <p>14 with its union regarding union activities, that</p> <p>15 Southwest Airlines not interfere, true?</p> <p>16 A. Yes.</p> <p>17 Q. And it is also, if I put the word "opt out</p> <p>18 person or "objector, your answer would still be the</p> <p>19 same, true?</p> <p>20 A. If it is a union activity, yes.</p> <p>21 Q. That was the question, ma'am. It presumed</p> <p>22 union activity. Why did you need to add it for an</p> <p>23 objector?</p> <p>24 A. I didn't. I made a statement earlier about</p> <p>25 sometimes people pretending or acting on behalf of</p>	<p style="text-align: right;">Page 314</p> <p>1 the union and it not actually being union</p> <p>2 activities.</p> <p>3 Q. Did -- were you the lead negotiator for a</p> <p>4 Collective Bargaining Agreement with Southwest</p> <p>5 Airlines?</p> <p>6 A. Yes.</p> <p>7 MR. PRYOR: Let's look at Exhibit 6.</p> <p>8 I'm going to give you a couple of pages</p> <p>9 from that.</p> <p>10 THE COURT: Is this for the witness only</p> <p>11 or are you moving it into evidence?</p> <p>12 MR. PRYOR: I'm sorry, your Honor?</p> <p>13 THE COURT: Is this for the witness only</p> <p>14 or are you moving its admission into evidence?</p> <p>15 MR. PRYOR: I will move for its admission,</p> <p>16 sure.</p> <p>17 THE COURT: Okay. Number 6. Do we have</p> <p>18 an objection to 6?</p> <p>19 MR. McKEEBY: No objection.</p> <p>20 MR. GREENFIELD: No objection.</p> <p>21 THE COURT: Okay. 6 is in evidence.</p> <p>22 (The referred-to document was admitted</p> <p>23 into evidence as Plaintiff's Exhibit 6.)</p> <p>24 THE COURT: You can publish to the witness</p> <p>25 and the jury.</p>
<p style="text-align: right;">Page 315</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. Let's look at the first page.</p> <p>3 Do you recognize Exhibit 6 as the Collective</p> <p>4 Bargaining Agreement between Southwest Airlines and</p> <p>5 your union?</p> <p>6 A. Yes.</p> <p>7 Q. Now let's look at page SWA 07.</p> <p>8 I'm going to read the first -- you negotiated</p> <p>9 this, so this is your agreement, right?</p> <p>10 A. Yes.</p> <p>11 Q. And you say, "No employee covered by this</p> <p>12 agreement will be interfered with, restrained,</p> <p>13 coerced or discriminated against by the company or</p> <p>14 the union because of membership in the union."</p> <p>15 Then you say, "All employees shall be free to</p> <p>16 engage in lawful union activities or to refrain from</p> <p>17 such activities." True?</p> <p>18 A. Yes. That is the language in the contract.</p> <p>19 Q. So employees are free to engage in lawful union</p> <p>20 activities.</p> <p>21 Let's go to page 011.</p> <p>22 In paragraph 2, it says, "Employees covered by</p> <p>23 this agreement shall be governed by all company</p> <p>24 rules, regulations, and orders previously or</p> <p>25 hereinafter issued by proper authorities of the</p>	<p style="text-align: right;">Page 316</p> <p>1 company which are not in conflict with the terms of</p> <p>2 this agreement."</p> <p>3 So all of the employees are covered by employee</p> <p>4 policies unless they are in conflict with the terms</p> <p>5 of this agreement. True?</p> <p>6 A. Yes.</p> <p>7 Q. Now, let's go back to what we just read before</p> <p>8 on 07.</p> <p>9 "All employees shall be free to engage in</p> <p>10 lawful union activities or refrain from such</p> <p>11 activities."</p> <p>12 So if an employee is engaged in lawful union</p> <p>13 activities, Southwest Airlines' policies don't</p> <p>14 apply.</p> <p>15 That's your understanding, true?</p> <p>16 A. Yes.</p> <p>17 Q. You ran for Union president in 2013?</p> <p>18 A. No.</p> <p>19 Q. When did you run?</p> <p>20 A. For president?</p> <p>21 Q. Yes.</p> <p>22 A. 2015.</p> <p>23 Q. Oh, that is right. You ran for first or</p> <p>24 second -- what office did you run for in 2013?</p> <p>25 A. I didn't run for any office in 2013.</p>

<p style="text-align: right;">Page 317</p> <p>1 Q. When were you -- when were you running that you 2 were defeated and then put in the office? 3 A. The election of 2012. 4 Q. 2012. 5 So in 2012, what office were you running for? 6 A. First vice president. 7 Q. You were running for first vice president. And 8 were you elected? 9 A. No. 10 Q. And in fact, an entire another slate of -- you 11 were in one slate of candidates and there was 12 another slate of candidates, true? 13 A. Yes. 14 Q. And the other slate of candidates was elected? 15 A. Yes. 16 Q. And then a couple, what, two or three of those 17 were kicked out of their office? 18 A. Three were removed from their position. 19 Q. So three were removed from office. 20 Who removed them? 21 A. The executive board, the governing body of the 22 local union. 23 Q. The executive board of the union. 24 So the executive board removed the three people 25 that were elected and then two others resigned?</p>	<p style="text-align: right;">Page 318</p> <p>1 A. The two that resigned, resigned before the 2 removals of the other three. 3 Q. So in any event, those five are out and you get 4 put into what position? 5 A. The first vice president. 6 Q. And then you ended up going to president 7 because that position was vacated? 8 A. Once the president was removed, yes. 9 Q. Okay. And I'm sorry, I'm having trouble 10 hearing you. 11 A. Once the president was removed from office, 12 yes. 13 Q. Okay. 14 MR. PRYOR: Let's look at Exhibit 24. 15 And I will move for its admission. 16 THE COURT: Okay. 24. Any objection? 17 I have nothing on file for 24. 18 MR. PRYOR: Are you talking to me, your 19 Honor? 20 THE COURT: I'm asking if there is a -- 21 was 24 on the list for today? 22 Let me ask them. I have no written 23 objection to 24. 24 So anything from Southwest or Union for 25 24?</p>
<p style="text-align: right;">Page 319</p> <p>1 MR. GREENFIELD: No, your Honor. 2 MR. McKEEBY: No objection. 3 THE COURT: Okay. 24 is in evidence. You 4 can publish. 5 (The referred-to document was admitted 6 into evidence as Plaintiff's Exhibit 24.) 7 BY MR. PRYOR: 8 Q. Let me show you Exhibit 24. 9 I'm going to start at the beginning of this 10 email string. It's the last page. 11 By the way, it looks like it's pretty easy to 12 see these on the screen, but if you ever need a hard 13 copy of a document, just ask me, I will bring it up 14 to you. 15 Some of these emails, it might be easier at 16 times, so feel free to ask. 17 So this is an email from Charlene Carter to 18 John Parrott. 19 Who is John Parrott? 20 A. He was the treasurer of the executive board and 21 the local union at that time. 22 Q. He was on your team, right? 23 A. Yes. 24 Q. And the subject matter is "COPE." 25 Tell us what COPE is.</p>	<p style="text-align: right;">Page 320</p> <p>1 A. COPE is Committee on Political Education. 2 Q. I'm sorry? 3 A. COPE is the Committee on Political Education. 4 Q. So it's the committee that spends union money 5 on political activities, true? 6 A. Yes. 7 Q. And Charlene Carter objected to her union dues 8 being used for those type of activities, true? 9 A. I don't know if she objected about her union 10 dues. 11 The deduction that is referenced in this email 12 was a voluntary deduction that she would have had to 13 sign up for. 14 Q. Okay. 15 A. It was separate from union dues. 16 Q. So she says to Mr. Parrott, "I" -- I think it 17 should say it -- "has come to my attention that in 18 my paycheck, there is a deduction coming out for 19 COPE, and I would like to stop this from being 20 deducted ASAP." 21 Do you see that? 22 A. Yes, sir. 23 Q. You were aware of her request, true? 24 A. When I received this email, yes. 25 Q. Okay. You became aware of her saying, "I don't</p>

<p style="text-align: right;">Page 321</p> <p>1 want to pay for these political activities," right?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And that is her right as a union member</p> <p>4 to say she doesn't want to do that, true?</p> <p>5 A. Yes.</p> <p>6 Q. So do you respect the rights of your members?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Let's see your respect.</p> <p>9 Then Mr. Parrott says -- he sends an email to</p> <p>10 you and he says, "Ha. She has been supporting the</p> <p>11 thing she despises this entire time."</p> <p>12 Do you recall that?</p> <p>13 A. I see it here. I don't recall it --</p> <p>14 Q. You don't recall --</p> <p>15 A. -- back then.</p> <p>16 Q. -- the treasurer, one of your team members, is</p> <p>17 belittling the request from a union member that</p> <p>18 doesn't want to do this, and as a matter of fact,</p> <p>19 he's belittling it even more so because you designed</p> <p>20 her paycheck so that it wouldn't reveal she was</p> <p>21 paying for these COPE activities and she did it for</p> <p>22 years --</p> <p>23 MR. McKEEBY: Objection, argumentative.</p> <p>24 THE COURT: Sustained.</p> <p>25 Please rephrase.</p>	<p style="text-align: right;">Page 322</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. Are you aware that her paycheck was designed to</p> <p>3 avoid revealing to her that she was paying for these</p> <p>4 political activities?</p> <p>5 A. No, I don't have anything to do with how</p> <p>6 Southwest Airlines lines up any payroll deductions.</p> <p>7 Q. Okay. You swear the Union had nothing -- it's</p> <p>8 your testimony, under oath, that the Union had</p> <p>9 nothing to do with that?</p> <p>10 A. I don't have any knowledge or part of how the</p> <p>11 payroll deductions are set up between the Union and</p> <p>12 Southwest Airlines.</p> <p>13 Q. Forget any knowledge.</p> <p>14 Do you have any knowledge that there was an</p> <p>15 arrangement with the Union to conceal from</p> <p>16 Ms. Carter how her funds were being used?</p> <p>17 A. No, absolutely not.</p> <p>18 Q. You have no knowledge of that?</p> <p>19 A. No.</p> <p>20 Q. And then up above, the next email says -- by</p> <p>21 the way, did you respond to this email and say,</p> <p>22 "Hey, she's entitled to do that. You shouldn't be</p> <p>23 making fun of her and being happy that she's been</p> <p>24 paying for something she despises."</p> <p>25 Did you say that?</p>
<p style="text-align: right;">Page 323</p> <p>1 A. No.</p> <p>2 Q. Why not?</p> <p>3 A. I had no idea she'd been volunteering to COPE</p> <p>4 until this, and she was probably paying in more than</p> <p>5 the money she was getting back after she had opted</p> <p>6 out.</p> <p>7 And it was an informational email that was sent</p> <p>8 to four of us, and I didn't comment at all on it.</p> <p>9 Q. Ma'am, I didn't ask you about Ms. Carter's</p> <p>10 request.</p> <p>11 I asked you about Mr. Parrott's email to you</p> <p>12 belittling Ms. Carter and her request and being</p> <p>13 thrilled that she's been supporting things she</p> <p>14 despises this entire time.</p> <p>15 She's exercising her union right.</p> <p>16 This is what you get.</p> <p>17 As Union president, did you tell Mr. Parrott,</p> <p>18 Hey, that is inappropriate?</p> <p>19 MR. McKEEBY: Objection. Again, this is</p> <p>20 argument, not a question.</p> <p>21 THE COURT: I will allow that one.</p> <p>22 THE WITNESS: No.</p> <p>23 BY MR. PRYOR:</p> <p>24 Q. Why not?</p> <p>25 A. I just didn't comment on it.</p>	<p style="text-align: right;">Page 324</p> <p>1 Q. So if somebody does something clearly</p> <p>2 inappropriate on your leadership team and you don't</p> <p>3 comment, you don't comment because you agree?</p> <p>4 A. No.</p> <p>5 Q. Oh. Then why didn't you comment?</p> <p>6 A. I just chose not to comment at all on the</p> <p>7 thread.</p> <p>8 Q. Well, let's look at the next one.</p> <p>9 Then there is an email from Cuyler Thompson.</p> <p>10 Who is Cuyler Thompson?</p> <p>11 A. He was the recording secretary for the Union at</p> <p>12 the time.</p> <p>13 Q. And he sends you an email as well, correct?</p> <p>14 A. It was an email thread going to everyone. It</p> <p>15 wasn't just sent to me directly.</p> <p>16 Q. Did he send it to you?</p> <p>17 A. He sent it to all of us.</p> <p>18 Q. Did he send it to you?</p> <p>19 A. Yes, I was one of the people he sent it to.</p> <p>20 Q. And so he's very comfortable sending belittling</p> <p>21 comments about a union member to the president. He</p> <p>22 said, "This just made my morning." True?</p> <p>23 A. Yes.</p> <p>24 Q. And I'm sure you responded to this one and</p> <p>25 said, Hey, come on, that is not the way we treat our</p>

<p style="text-align: right;">Page 325</p> <p>1 members.</p> <p>2 Is that what you said?</p> <p>3 A. No.</p> <p>4 Q. As a matter of fact, your only response was to</p> <p>5 talk about your Queso dip, right?</p> <p>6 A. Yes.</p> <p>7 Q. But it doesn't end there, does it?</p> <p>8 Can you tell us who Brett Nevarez is?</p> <p>9 A. He was the second vice-president of our union.</p> <p>10 Q. He's also an officer of the union, and he</p> <p>11 responds, "Yum to the Queso dip." But then he says,</p> <p>12 "So typical. Batshit dipshit cannot read her</p> <p>13 paycheck."</p> <p>14 He's referring to Ms. Carter, isn't he?</p> <p>15 A. Yes.</p> <p>16 Q. And did you respond to this?</p> <p>17 A. No.</p> <p>18 Q. Is that appropriate?</p> <p>19 A. No.</p> <p>20 Q. It is inappropriate. You are willing to come</p> <p>21 in to court today and say it was inappropriate.</p> <p>22 But back in 2013, when there wasn't a jury in</p> <p>23 the room, did you say it was inappropriate?</p> <p>24 A. No.</p> <p>25 Q. Why not?</p>	<p style="text-align: right;">Page 326</p> <p>1 A. I just chose not to comment at all on the</p> <p>2 communication.</p> <p>3 Q. You commented, you talked about your Queso dip.</p> <p>4 You chose not to comment on inappropriate behavior</p> <p>5 by your officers because you routinely engaged in it</p> <p>6 as well?</p> <p>7 A. That is not true.</p> <p>8 Q. And then you received another email. This was</p> <p>9 from Mr. Gage.</p> <p>10 So we are now covering all your officers,</p> <p>11 aren't we?</p> <p>12 He's another officer, right?</p> <p>13 A. Yes.</p> <p>14 Q. So we got the whole team.</p> <p>15 Now the Union and the whole leadership team</p> <p>16 says, "I wish you could give her a list of all of</p> <p>17 the campaigns she has donated to in the last 17</p> <p>18 years," exclamation point. "Her head would</p> <p>19 explode."</p> <p>20 Is that appropriate?</p> <p>21 A. No.</p> <p>22 Q. And what was your response to that?</p> <p>23 A. I didn't have one.</p> <p>24 Q. You certainly knew who Charlene Carter was in</p> <p>25 2013, didn't you?</p>
<p style="text-align: right;">Page 327</p> <p>1 A. Yes.</p> <p>2 Q. And you knew she objected to your team being</p> <p>3 put in place in place of the elected leaders, true?</p> <p>4 A. Yes.</p> <p>5 Q. And you certainly knew she opposed the</p> <p>6 political activities that your union was involved in</p> <p>7 and didn't want her dues going there, true?</p> <p>8 A. Yes.</p> <p>9 MR. PRYOR: I can't close the big one.</p> <p>10 MR. GREENFIELD: Counsel, did you say 146?</p> <p>11 MR. PRYOR: 146. Sorry.</p> <p>12 MR. GREENFIELD: That's all right.</p> <p>13 MR. PRYOR: Let me make sure it is the</p> <p>14 right one. It is.</p> <p>15 We move for the admission of Exhibit 146.</p> <p>16 THE COURT: Same objections as earlier?</p> <p>17 MR. McKEEBY: Yes, your Honor.</p> <p>18 THE COURT: So I am admitting 146, but I</p> <p>19 will tell the jury, there is a batch of exhibits</p> <p>20 that I'm admitting, but they're only as to one</p> <p>21 defendant, not the other.</p> <p>22 So this is one of those exhibits. So it</p> <p>23 is admissible and relevant only as to the Union not</p> <p>24 as to Southwest Airlines. So please consider it in</p> <p>25 that regard. I will make that note on the exhibit</p>	<p style="text-align: right;">Page 328</p> <p>1 list that you will also have back in the jury room.</p> <p>2 So 146 is admitted as to the Union.</p> <p>3 (The referred-to document was admitted</p> <p>4 into evidence as Plaintiff's Exhibit 146.)</p> <p>5 MR. PRYOR: Your Honor, may I approach?</p> <p>6 (Thereupon, the following proceedings were</p> <p>7 had at sidebar:)</p> <p>8 MR. PRYOR: First of all, let me say</p> <p>9 making a record on these sidebars is costing me time</p> <p>10 to make a record. I understand your rulings.</p> <p>11 THE COURT: So do so briefly. You just</p> <p>12 cost yourself five seconds.</p> <p>13 MR. PRYOR: We object to the Court's</p> <p>14 limiting instruction. It's relevant to our claims</p> <p>15 against Southwest.</p> <p>16 THE COURT: Understood. I will give you a</p> <p>17 running objection on that for all of the buckets at</p> <p>18 once. I'm including with the limiting instruction</p> <p>19 as to the Union only.</p> <p>20 MR. McKEEBY: Your Honor, not to quibble,</p> <p>21 but I will, when you give the limiting instruction,</p> <p>22 I think you should say "relevant to the claims</p> <p>23 against the Union, not relevant to the claims</p> <p>24 against Southwest."</p> <p>25 I think just to say "relevant to</p>

<p style="text-align: right;">Page 329</p> <p>1 Southwest" doesn't adequately communicate. 2 THE COURT: I will clean that up. 3 MR. PRYOR: I appreciate the running 4 objection. 5 THE COURT: You bet. 6 (Thereupon, the sidebar was concluded and 7 the following proceedings were held in open 8 court.) 9 THE COURT: Okay. Just to clean up my 10 wording. This exhibit and the ones that are like it 11 later on that I'll give this disclaimer on are 12 relevant to the claims against the Union and are not 13 relevant to the claims against Southwest. 14 With that, 146 is in evidence with the 15 limitation that I just gave you. 16 You can proceed. 17 MR. PRYOR: Okay. Let's go to the 18 beginning of this email string. 19 And there it is. 20 BY MR. PRYOR: 21 Q. Okay. This is an email from you to Sonya 22 Lacore, true? 23 A. Yes. 24 Q. And it's back in January of 2014. True? 25 A. Yes.</p>	<p style="text-align: right;">Page 330</p> <p>1 Q. Who is Sonya Lacore? 2 A. At the time she was a director in inflight for 3 Southwest Airlines. 4 Q. Is that pretty high up at Southwest? 5 A. It is below -- yes, it is below vice president. 6 Q. Okay. But it is high up in management. She's 7 not a low-level employee? 8 A. Correct. 9 Q. Okay. 10 And what is "inflight"? 11 A. "Inflight" is the term that Southwest Airlines 12 uses to describe the department that oversees the 13 flight attendant work group. 14 Q. The what? 15 A. The flight attendant work group. 16 Q. Okay. 17 And that is 15,000 or more employees? 18 A. Yes. 19 Q. And you send an email to Ms. Lacore, true? 20 A. Yes. 21 Q. And it says, "Heads up. We have a movement of 22 objectors, those that resign their union membership 23 and receive a small reimbursement of their dues, and 24 the board agreed that a non-member of 556 cannot 25 represent TWU 556 on any 556 committee."</p>
<p style="text-align: right;">Page 331</p> <p>1 What you are talking about there is there are 2 joint committees between Southwest Airlines and the 3 Union, and any objectors to the Union you want off 4 the committees? 5 A. Yes, if it is a joint union committee. 6 Q. I'm sorry? 7 A. Yes, if it is a joint union committee. 8 Q. Objectors are also entitled to be represented 9 by the union, aren't they, by law? 10 A. Yes. 11 Q. And were you aware of whether or not this was 12 even a legal request you were making? 13 Was it legal to kick the objectors off the 14 committees, if you know? 15 A. Yes, based on our understanding of RTW 16 international constitution and our bylaws that state 17 someone who has opted out of the union cannot attend 18 a membership meeting, cannot vote on any union 19 matters, and completely lose their voice to 20 participate in any union activity. 21 So under that, you cannot then serve on a union 22 committee if you cannot participate in union 23 activities. 24 Q. I understand you're telling me your 25 International Union rules, and I appreciate that</p>	<p style="text-align: right;">Page 332</p> <p>1 very much. 2 That doesn't happen, however, to be the law of 3 the land. 4 I'm asking you, legally -- 5 MR. GREENFIELD: Objection, your Honor. 6 THE COURT: So I'll put a pin in this, 7 that all of the law will come from me at the end of 8 the case. 9 So if a lawyer ever tells you, that is not 10 the law, then wait to hear the law from me. 11 With that, you can proceed. 12 BY MR. PRYOR: 13 Q. Well, let me ask that question that your 14 counsel wants to ask. 15 So do you think that the International Union is 16 the law of the United States of America? 17 A. No. 18 Q. Okay. Let me ask you about the law of the 19 United States of America. 20 Did you have any understanding as to whether or 21 not what you were requesting was even legal? 22 A. I'm not an attorney and I'm not allowed to talk 23 about anything that is attorney-client privilege. 24 Q. So you did speak to an attorney about whether 25 or not this was legal, but you just aren't going to</p>

<p style="text-align: right;">Page 333</p> <p>1 tell us what he or she said?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And did you proceed forward knowing that</p> <p>4 in fact what you were requesting was illegal?</p> <p>5 A. No.</p> <p>6 MR. GREENFIELD: Same objection, your</p> <p>7 Honor.</p> <p>8 BY MR. PRYOR:</p> <p>9 Q. So you had advice --</p> <p>10 MR. PRYOR: I'm sorry, what was the</p> <p>11 objection?</p> <p>12 THE COURT: The objection was on framing a</p> <p>13 legal conclusion.</p> <p>14 So I will allow you to ask that question.</p> <p>15 BY MR. PRYOR:</p> <p>16 Q. Tell me the name of the attorney you spoke to.</p> <p>17 A. Ed Cloutman.</p> <p>18 Q. This gentleman right over here?</p> <p>19 A. Yes, sir.</p> <p>20 Q. And the Union attorney told you this was a</p> <p>21 legal request?</p> <p>22 MR. GREENFIELD: Objection, your Honor.</p> <p>23 Ms. Stone has clearly testified that there is</p> <p>24 attorney-client privilege existing.</p> <p>25 THE COURT: Sustained.</p>	<p style="text-align: right;">Page 334</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. Then it says, "The board agreed."</p> <p>3 When you say "the board" in this email, who is</p> <p>4 the board?</p> <p>5 A. The executive board is the governing body of</p> <p>6 the Union, of Local 556.</p> <p>7 Q. So these people that were ridiculing Ms. Carter</p> <p>8 in the emails that we looked at first, that is who</p> <p>9 they are?</p> <p>10 A. They are some members of the executive board.</p> <p>11 Q. Certainly that group.</p> <p>12 Who are we missing?</p> <p>13 A. The executive board had 17 flight attendants on</p> <p>14 it.</p> <p>15 Q. Oh, I don't want all of them.</p> <p>16 So all 17 of them agreed?</p> <p>17 A. Yes.</p> <p>18 Q. And then it says, "Kent Hand on CISM, and we</p> <p>19 instructed Eileen to let him know he couldn't serve.</p> <p>20 He's trying to cause her problems."</p> <p>21 And the problems he was causing her is he</p> <p>22 didn't want to resign from the committee.</p> <p>23 Is that the problem?</p> <p>24 A. He was very aggressive when she spoke with him,</p> <p>25 and she was very upset after the conversation and</p>
<p style="text-align: right;">Page 335</p> <p>1 very rattled.</p> <p>2 Q. So you send this to -- by the way, you say,</p> <p>3 "Sorry to bring more Union drama your way."</p> <p>4 What is the "more" referring to?</p> <p>5 A. This was six months after we had just had what</p> <p>6 I think anyone would call Union drama when two</p> <p>7 officers resigned and the other three were removed</p> <p>8 from their positions. Our Union had been in</p> <p>9 upheaval in 2013.</p> <p>10 And it was widely known with Southwest and</p> <p>11 other unions that we had had a very dramatic year</p> <p>12 with the Union, and it was right on the heels of</p> <p>13 that.</p> <p>14 Q. And not only that, it led to a movement of</p> <p>15 objectors, people who were in the union, that were</p> <p>16 so upset that they resigned. They still paid dues,</p> <p>17 they are still entitled to be represented, but they</p> <p>18 resigned?</p> <p>19 A. Yes.</p> <p>20 Q. And then let's look at Ms. Lacore's response.</p> <p>21 She says, "I'm sorry you are having to deal</p> <p>22 with it. Let me know if there is anything I can do</p> <p>23 to assist."</p> <p>24 That is part of what she said, right?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 336</p> <p>1 Q. And why did you send this to her to begin with?</p> <p>2 You thought Southwest should be the one to take</p> <p>3 against a union objector?</p> <p>4 A. No, absolutely not.</p> <p>5 All of the joint committees between Southwest</p> <p>6 and the Union have a liaison from both the Southwest</p> <p>7 side and the Union side that will coordinate with</p> <p>8 the committee, that work on budgets, who is going to</p> <p>9 pay what.</p> <p>10 And at the time, Sonya Lacore was the liaison</p> <p>11 for Southwest for the critical incident stress</p> <p>12 management committee.</p> <p>13 Q. So you weren't asking Southwest Airlines to</p> <p>14 remove these people from the committee, correct?</p> <p>15 That was something the union would do?</p> <p>16 A. Correct. I was just informing them that he</p> <p>17 could no longer serve on that union committee</p> <p>18 because he was a non-member.</p> <p>19 Q. And then you respond to her and say, when she</p> <p>20 says, "What can Southwest Airlines do to assist</p> <p>21 you?"</p> <p>22 You then say, "You may want to leave your</p> <p>23 directors" -- I assume that means let -- "let your</p> <p>24 directors and base managers know as well that any</p> <p>25 non-member of TWU may not be a representative of</p>

<p style="text-align: right;">Page 337</p> <p>1 Local 556. This would apply to meetings as well." 2 You are not asking her to make sure they are 3 not on there? 4 A. No. 5 Q. Then what was the point of telling her that? 6 A. Because we had discussed that if -- a flight 7 attendant always has the right, we allow them to 8 take in any representative that they would like, if 9 Southwest Airlines members and management are 10 calling them in for any investigation or meeting. 11 However, if it is not someone that is an actual 12 union representative that has been trained to be a 13 union representative to represent someone in a 14 meeting, then they are just simply there as support 15 and not an actual representative, an agent of the 16 union. 17 And, again, someone that had opted out of the 18 union cannot serve in a union capacity to officially 19 represent someone in a meeting with Southwest 20 Airlines. 21 Q. So you know that objectors had to file a 22 lawsuit for their rights to be protected, to be 23 represented on joint committees? 24 MR. GREENFIELD: Objection, your Honor. 25 Lack of foundation.</p>	<p style="text-align: right;">Page 338</p> <p>1 THE COURT: Sustained. 2 BY MR. PRYOR: 3 Q. Do you know? 4 I'm trying to lay the foundation. 5 He doesn't have the answer, ma'am. I'm asking 6 for your testimony. 7 Are you aware? All you have to do is tell the 8 truth. 9 A. I am aware that there was a lawsuit filed, yes. 10 Q. What was so difficult and why did you have to 11 look over here to answer my question? 12 A. Because, sir, he raised an objection. Judge 13 Starr said "sustained," and I was just for a second 14 trying to remember if that meant I needed to answer. 15 This is my first time testifying in court, so it 16 just took me a second to process that. 17 Q. I understand that process. 18 I'm just wondering why you needed to look at 19 the Union table to process that. 20 A. I looked at the Union table because he raised 21 an objection and stood up. 22 Q. Are you being represented by counsel today? 23 A. Yes. 24 Q. So do you know what happened with that lawsuit 25 that had to be filed because of the action you took</p>
<p style="text-align: right;">Page 339</p> <p>1 with Southwest Airlines? 2 MR. GREENFIELD: Objection, your Honor. 3 Anything that stems from this discussion 4 is related to -- 5 THE COURT: Sidebar if you want to phrase 6 it. 7 (Thereupon, the following proceedings were 8 had at sidebar:) 9 MR. GREENFIELD: Mr. Cloutman is going to 10 join us for the conversation. He was a part of 11 this. 12 THE COURT: Understood. 13 MR. CLOUTMAN: May I speak? 14 THE COURT: Sure. Yeah, you may speak. 15 MR. CLOUTMAN: There was a lawsuit filed, 16 and it was the subject of a confidential settlement. 17 We can't get into the terms of who shot John at all 18 about the terms of the settlement. I think counsel 19 knows that. 20 MR. PRYOR: First of all, I don't know 21 that, but I accept it -- 22 MR. CLOUTMAN: Now you do. 23 MR. PRYOR: I was going to say, I accept 24 your representation, but I don't accept that it 25 overrules evidence in a federal court proceeding.</p>	<p style="text-align: right;">Page 340</p> <p>1 That is not confidential from this proceeding. 2 MR. CLOUTMAN: Yes, it is. It absolutely 3 is. It's been filed in federal court and approved 4 by a federal judge. 5 THE COURT: Well, I'm not going to bust it 6 up, but I will let you ask if you know the outcome, 7 right? And if her answer is there was a settlement 8 that was confidential and remains confidential, it 9 is what it is. 10 MR. PRYOR: I will just do that. 11 MR. GREENFIELD: Can we instruct the 12 witness on that? 13 THE COURT: I will instruct the witness -- 14 well, you ask the question, and I will say that the 15 witness can answer this question. 16 MR. PRYOR: So I ask broad-based, and then 17 you will limit with your instruction? 18 THE COURT: Correct. 19 (Thereupon, the sidebar was concluded and 20 the following proceedings were held in open 21 court:) 22 THE COURT: Okay. You can ask your next 23 question, then I will give an instruction to the 24 witness, and then you can answer. 25 How about that?</p>

<p style="text-align: right;">Page 341</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. Ma'am, isn't it true that you do know what</p> <p>3 happened, what the outcome of that lawsuit was, and</p> <p>4 the illegality of your actions? True?</p> <p>5 THE COURT: So I will tell the witness</p> <p>6 that the witness can answer if you know of a</p> <p>7 settlement but you cannot reveal the contents of</p> <p>8 that settlement.</p> <p>9 THE WITNESS: All I know is that there was</p> <p>10 a settlement done through the insurance company. I</p> <p>11 don't know any details of what that looked like. I</p> <p>12 wasn't a part of that.</p> <p>13 MR. PRYOR: Okay. Thank you.</p> <p>14 Exhibit 25. We move for its admission.</p> <p>15 THE COURT: 25. I see the objections from</p> <p>16 this morning.</p> <p>17 Does the Union need a sidebar? I know</p> <p>18 what I'm going to do with 25.</p> <p>19 MR. GREENFIELD: I'm pulling the document</p> <p>20 up right now, if I may have a moment.</p> <p>21 THE COURT: You bet.</p> <p>22 MR. GREENFIELD: If we could have a</p> <p>23 sidebar, your Honor.</p> <p>24 THE COURT: You may.</p> <p>25 (Thereupon, the following proceedings were</p>	<p style="text-align: right;">Page 342</p> <p>1 had at sidebar:)</p> <p>2 MR. GREENFIELD: I would just like to know</p> <p>3 what your Honor is planning on doing before we --</p> <p>4 THE COURT: I think a couple of hearsay</p> <p>5 exceptions apply, so I plan on overruling the</p> <p>6 hearsay objection.</p> <p>7 MR. GREENFIELD: Thank you.</p> <p>8 (Thereupon, the sidebar was concluded and</p> <p>9 the following proceedings were held in open</p> <p>10 court:)</p> <p>11 THE COURT: All right. I'm admitting 25</p> <p>12 into evidence over the objection.</p> <p>13 You can publish it to the jury.</p> <p>14 (The referred-to document was admitted</p> <p>15 into evidence as Plaintiff's Exhibit 25.)</p> <p>16 BY MR. PRYOR:</p> <p>17 Q. Let's look at Exhibit 25, the second page.</p> <p>18 Do you want to see the first page before the</p> <p>19 second page so you can see what this --</p> <p>20 Do you recognize this or do you want to see the</p> <p>21 first page?</p> <p>22 A. I don't have anything on my screen yet.</p> <p>23 Q. I'm sorry?</p> <p>24 A. I don't have anything on my screen yet.</p> <p>25 Q. There's nothing on your screen?</p>
<p style="text-align: right;">Page 343</p> <p>1 MR. PRYOR: Let's get 25 on there.</p> <p>2 Can you hand me Exhibit 25?</p> <p>3 THE COURT: It is up now.</p> <p>4 BY MR. PRYOR:</p> <p>5 Q. Okay. There is the first page.</p> <p>6 Let me show you -- let's go to the second page.</p> <p>7 And this -- did you want a copy of this?</p> <p>8 A. I can see it now, thank you.</p> <p>9 Q. Okay. So can you tell me what this second page</p> <p>10 is?</p> <p>11 A. It looks like a post that Ms. Carter made</p> <p>12 somewhere.</p> <p>13 Q. That is right. It is a post that Ms. Carter</p> <p>14 made.</p> <p>15 And she says, among other things, "I am so mad</p> <p>16 at the past really. I am just so tired of the same</p> <p>17 old stuff from this union being thought about with</p> <p>18 Thom McDaniel."</p> <p>19 Then goes on to say, "And that is, I am a</p> <p>20 non-member objector. I would love to start the card</p> <p>21 drive to get rid of TWU."</p> <p>22 So Ms. Carter has made a post somewhere that</p> <p>23 she's upset with her union and she wants a card</p> <p>24 drive to get rid of TWU, right?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 344</p> <p>1 Q. And "getting rid of TWU," another phrase for</p> <p>2 that is decertification, right?</p> <p>3 A. Yes.</p> <p>4 Q. By the way, are you aware that one of your</p> <p>5 officers previously threatened Ms. Carter when she</p> <p>6 said there should be decertification?</p> <p>7 A. Threatened? No.</p> <p>8 Q. Yes.</p> <p>9 Tell her that she would be kicked out of the</p> <p>10 union and lose her job?</p> <p>11 A. No.</p> <p>12 Q. You are not aware that Cuyler Thompson did</p> <p>13 that?</p> <p>14 A. No.</p> <p>15 Q. All right.</p> <p>16 Do you know how this post of Ms. Carter's ends</p> <p>17 up being in an email from Brian to you?</p> <p>18 MR. PRYOR: Next page.</p> <p>19 BY MR. PRYOR:</p> <p>20 Q. This is from Brian to -- is that to you or is</p> <p>21 it to Brett Nevarez?</p> <p>22 MR. PRYOR: Do we have an unredacted</p> <p>23 version?</p> <p>24 BY MR. PRYOR:</p> <p>25 Q. Eventually, in any event, it ends finding its</p>

<p style="text-align: right;">Page 345</p> <p>1 way to you, right?</p> <p>2 A. It went to -- it looks like it was forwarded to</p> <p>3 me along with four other people.</p> <p>4 Q. Okay. Well, when Southwest or the Union</p> <p>5 produced this, they blacked out these things.</p> <p>6 I don't know who the "to" is. Do you?</p> <p>7 A. The "to" on my document says "Audrey Stone" --</p> <p>8 at the very top --</p> <p>9 Q. I'm talking about below where it is blacked</p> <p>10 out.</p> <p>11 Is that some kind of state secret as well?</p> <p>12 A. I don't know. I don't know who it was sent out</p> <p>13 to.</p> <p>14 Q. In any event, you received this.</p> <p>15 And who is Brian?</p> <p>16 A. A flight attendant at Southwest.</p> <p>17 Q. Is that it?</p> <p>18 Is that all you can tell us about him?</p> <p>19 Tell us about Mr. Talburt, ma'am.</p> <p>20 A. He's a long-time very senior flight attendant</p> <p>21 at Southwest Airlines.</p> <p>22 Q. Okay.</p> <p>23 How about his union activity?</p> <p>24 You didn't mention that, so I will ask.</p> <p>25 A. He was very supportive of our administration</p>	<p style="text-align: right;">Page 346</p> <p>1 when we were in office.</p> <p>2 Q. Very supportive. Wouldn't you put that in all</p> <p>3 caps?</p> <p>4 That is an understatement, right?</p> <p>5 A. I don't know that it is an understatement. I</p> <p>6 just -- he was -- he was supportive.</p> <p>7 Q. Hmm.</p> <p>8 So he was just supportive.</p> <p>9 Did you have a core team?</p> <p>10 A. Yes.</p> <p>11 Q. And you had a core team that had a secret</p> <p>12 Facebook page, correct?</p> <p>13 A. A private Facebook page.</p> <p>14 Q. The actual setting is secret, isn't it, ma'am?</p> <p>15 There is public, private and secret. You are</p> <p>16 telling me it wasn't secret?</p> <p>17 A. I didn't set it up, and I'm not Facebook savvy.</p> <p>18 I did not know it went private and secret. I just</p> <p>19 knew that it was a --</p> <p>20 Q. But wait. No, no. You just told us under oath</p> <p>21 it was private. Now you are telling us you don't</p> <p>22 know if it was private or not?</p> <p>23 A. No, no, no. I said I knew it was private. I</p> <p>24 don't understand the different settings between</p> <p>25 private and secret and what that looks like in</p>
<p style="text-align: right;">Page 347</p> <p>1 Facebook.</p> <p>2 Q. But it was your understanding that no one could</p> <p>3 get on that Facebook page except your core team</p> <p>4 members?</p> <p>5 A. It was only people that were -- that were on --</p> <p>6 would have been -- had to have been added by an</p> <p>7 admin.</p> <p>8 Q. That's right.</p> <p>9 And it was during your campaign and it was your</p> <p>10 inner circle, true?</p> <p>11 A. No. There were actually flight attendants on</p> <p>12 there that I did not know well at all.</p> <p>13 Q. That weren't supporting you?</p> <p>14 A. There were flight attendants that had personal</p> <p>15 relationships with other people on my team that may</p> <p>16 have been supporting them, but again, weren't people</p> <p>17 that -- it wasn't just my inner circle. There were</p> <p>18 people I did not know well.</p> <p>19 Q. Mr. Talburt certainly knew you, right? You</p> <p>20 knew him.</p> <p>21 A. Yes.</p> <p>22 Q. And you also appointed him to the CAN</p> <p>23 committee, right?</p> <p>24 A. Yes.</p> <p>25 Q. And that's the committee that is supposed to</p>	<p style="text-align: right;">Page 348</p> <p>1 keep flight attendants informed about the efforts of</p> <p>2 the union in the collective bargaining process?</p> <p>3 A. Yes.</p> <p>4 Q. That was an important position, wasn't it?</p> <p>5 Is it unimportant?</p> <p>6 A. No, it was an important role.</p> <p>7 Q. Is there some reason you are hesitant to praise</p> <p>8 all of the work that this very supportive member of</p> <p>9 your core team was involved in?</p> <p>10 A. No.</p> <p>11 Q. Okay. Well, then, why can't you tell us, he's</p> <p>12 a great guy, he supported me?</p> <p>13 A. I -- I already stated that he was a big</p> <p>14 supporter throughout my administration.</p> <p>15 Q. So Mr. Talburt sends you this post of</p> <p>16 Ms. Carter's.</p> <p>17 Do you know how he got it?</p> <p>18 A. I don't.</p> <p>19 Q. You don't know where it came from?</p> <p>20 A. No.</p> <p>21 Q. And then Mr. Nevarez, I think -- what did you</p> <p>22 say -- he was second vice president at the Union?</p> <p>23 A. Yes.</p> <p>24 Q. He sends an email to you, and to others,</p> <p>25 including Mr. Parrott, "Cuyler's favorite is</p>

<p style="text-align: right;">Page 349</p> <p>1 threatening to decert now that she is not a member 2 and cannot be charged. I'm contacting legal counsel 3 and will keep you advised." 4 What did you understand that to mean? 5 A. I understood it to mean that he was going to be 6 checking with legal counsel on if there were any 7 ramifications regarding someone that had already 8 opted out that was trying to decert, because under 9 our TW international constitution, decertification, 10 you can have charges brought against you within the 11 Union for attempting to decertify. 12 But when you are not a member, there was a 13 question of what did that even mean and, you know, 14 could you bring even charges against somebody that 15 was a non-member. 16 Q. Well, let's not forget the first sentence. And 17 I will get to the second one. 18 "Cuyler's favorite is threatening to decert now 19 that she is not a member and cannot be charged." 20 Cuyler Thompson, the person that I've told 21 you -- you say you don't know -- threatened 22 Ms. Carter when she was a union member, and her 23 favorite -- I'm still over here, ma'am. 24 MR. PRYOR: Do you need something? 25 MR. GREENFIELD: Yes. I would like to</p>	<p style="text-align: right;">Page 350</p> <p>1 make an objection. He keeps testifying about facts 2 not in evidence about this threat. 3 THE COURT: I will sustain that. 4 BY MR. PRYOR: 5 Q. So, Mr. Cuyler -- or Mr. Nevarez is referencing 6 that Mr. Cuyler's favorite thing is threatening 7 members that mention decertification, but now that 8 Ms. Carter is not a member, she cannot be charged. 9 Isn't that what is being said there? 10 A. No. This email does not say Cuyler is 11 threatening. 12 Q. What is it talking about then? 13 A. It sounds like Cuyler's favorite, referring to 14 Ms. Carter, that she's threatening to decert now. 15 Q. And she's not a member and cannot be charged. 16 So the threatening that cannot be charged 17 doesn't then fit, does it? If it is talking about 18 her favorite. 19 A. No. That she's Cuyler's favorite. 20 Q. Why is it mentioning -- oh, I see. 21 You are saying that Ms. Carter is Cuyler's 22 favorite. 23 A. Yes. There is nothing in here about Cuyler 24 threatening anyone. 25 Q. Okay. So they were close friends?</p>
<p style="text-align: right;">Page 351</p> <p>1 A. No. 2 Q. Wait. It just says that she's Cuyler's 3 favorite. 4 A. I believe he was being sarcastic. 5 Q. Oh, okay. 6 And then it says, "I'm contacting legal 7 counsel." 8 So you are contacting legal counsel because 9 Ms. Carter has posted something that is related to 10 her union stating that she's fed up with them and 11 you need a better union, let's just rid of this one. 12 And so you are seeking legal counsel and what 13 you can do against her, in February of 2014, right? 14 A. I wasn't. 15 Q. I'm sorry? 16 A. I said I wasn't. Brett said he was going to. 17 Q. Oh, I'm sorry. Of course. You told Brett 18 Nevarez to stop. 19 You got an email saying that, right? 20 A. No. 21 Q. Oh, I thought you -- okay. Did you disagree 22 with him? 23 A. No. I thought contacting legal counsel for 24 advice was the appropriate thing to do. 25 Q. Okay. What action was taken?</p>	<p style="text-align: right;">Page 352</p> <p>1 A. There was no action taken. 2 Q. You sure wanted to, though, right? 3 A. No. 4 Q. You didn't? 5 Is that what you are saying, you didn't want to 6 take action against her? 7 Then why were you seeking legal counsel to take 8 action against her? Those don't make sense. 9 A. Any time any comments about decertification 10 came up, we sought the guidance of TW international 11 and legal counsel as leaders of the union. 12 Q. I just want to make sure I understand. 13 You didn't want to take legal action against 14 her, and when Mr. Nevarez suggested, let's check 15 with legal counsel and see what we can do, you 16 didn't agree with that? 17 A. That is not what I said. I said I thought it 18 was a good idea for him to seek legal counsel's 19 advice on what, if anything, needed to be done. 20 Q. So you wanted to do something? 21 A. No. I wanted to see if there was something we 22 should be doing as leaders of the union. 23 Q. Something you might be required to do, is that 24 what you were worried about? 25 A. Yes. Under the constitution and our bylaws,</p>

<p style="text-align: right;">Page 353</p> <p>1 there is a lot of things leaders of the Union are 2 required to do. 3 Q. Against an objector that thinks the Union 4 should be decertified, there is a lot of things in 5 the constitution? 6 A. No. In general, as union leaders, and there 7 are responsibilities when it comes to something 8 regarding decertification. Our TWU constitution 9 speaks to it. 10 MR. PRYOR: Let's look at Exhibit 26. 11 We move for its admission. 12 Don't display it yet. 13 MR. McKEEBY: No objection from Southwest. 14 THE COURT: Pending Union's written 15 objection, I'm happy to rule, unless you want to a 16 sidebar. 17 MR. GREENFIELD: Very briefly. 18 (Thereupon, the following proceedings were 19 had at sidebar:) 20 MR. GREENFIELD: I just didn't get what 21 your basis for the hearsay objection was on the 22 first one, and I wanted to make sure I preserved the 23 record as to what -- I presume you are going to have 24 an exception -- 25 THE COURT: All I have to do is overrule</p>	<p style="text-align: right;">Page 354</p> <p>1 it. I don't have to say which ground. 2 But I think there is a hearsay exception 3 that applies. I can't remember which one, that 4 Carter argued in its status report, but I thought 5 that exception applied. 6 Relevance, I will say it's marginal 7 relevance at best. If you want to use it, you may 8 burn your time. But you may understand it better 9 than I do. 10 So I'll overrule the objection. 11 MR. PRYOR: I'm worried about your list of 12 time now. I thought it was relevant. 13 (Thereupon, the sidebar was concluded and 14 the following proceedings were held in open 15 court:) 16 THE COURT: Okay. I'm admitting 26 over 17 objection. 18 You can publish to the jury. 19 (The referred-to document was admitted 20 into evidence as Plaintiff's Exhibit 26.) 21 BY MR. PRYOR: 22 Q. All right. Let's look at Exhibit 26. 23 And this is an email from Brian Talburt, the -- 24 I'm not sure how to characterize him now. 25 A good supporter of yours, right?</p>
<p style="text-align: right;">Page 355</p> <p>1 A. Yes. 2 Q. And he seems to email you stuff. 3 Is that part of his role, to gather information 4 and send it to you? 5 A. No. I received emails from a lot of members 6 every single day. 7 Q. Just like this one, right? 8 A. Yes. 9 Q. Okay. So Mr. Talburt is saying that "While it 10 has nothing to with the topic at hand, it's an 11 illustration of casual behind-the-scenes 12 conversations we have and particularly regarding 13 social media. 14 "I, along with Mike and Sonya, had a meeting 15 last summer with VDV to discuss social media as a 16 tool." 17 Who is Mike? 18 A. I am assuming, based on the bottom of the 19 original message, Mike Hafner. 20 There's numerous Mikes at Southwest, but since 21 Mike Hafner's name is below, I'm assuming that is 22 who he's referring to. 23 And at that time he would have been, if it is 24 Mike Hafner, the vice president of inflight for 25 Southwest.</p>	<p style="text-align: right;">Page 356</p> <p>1 Q. By the way, you make a really good point. 2 There is an original message from Mike Hafner, 3 and he's the head of inflight at Southwest Airlines, 4 right? 5 A. Yes. 6 Q. Where is his email? 7 A. I don't know. 8 Q. Have you seen it? 9 A. No. 10 Q. It's not here, is it? 11 A. It's not displayed on the screen that I'm 12 looking at, no. 13 Q. We are more than happy to allow that be 14 produced at any time. 15 MR. GREENFIELD: Objection, your Honor. 16 This is their own exhibit. There is no 17 evidence that something wasn't produced, and I don't 18 appreciate that insinuation to the jury. 19 THE COURT: I will strike that. 20 You can proceed. 21 BY MR. PRYOR: 22 Q. And Mike Hafner, and then Sonya -- is that 23 again Sonya Lacore? 24 A. I would assume so, yes. 25 Q. I'm sorry?</p>

<p style="text-align: right;">Page 357</p> <p>1 A. I would assume so, yes.</p> <p>2 Q. Okay. Were there a lot of other Sonyas that</p> <p>3 you dealt with at Southwest Airlines in management?</p> <p>4 A. In management, no.</p> <p>5 Q. And who is VDV?</p> <p>6 A. I'm not certain.</p> <p>7 Q. Okay. And if it turns out to be someone that</p> <p>8 everyone recognizes as the COO of Southwest</p> <p>9 Airlines, you are telling us, as Union president in</p> <p>10 2014, that would be a shock to you?</p> <p>11 A. Yes.</p> <p>12 Q. Okay.</p> <p>13 A. Not that VDV --</p> <p>14 Q. That is fine. It is shocking to you. We will</p> <p>15 recall.</p> <p>16 Are you changing that?</p> <p>17 A. No, I wasn't finished.</p> <p>18 He's referencing a meeting that took place.</p> <p>19 I'm not certain I was even president yet because</p> <p>20 he's referencing a meeting that took place the</p> <p>21 previous summer, which was around the time the</p> <p>22 changeover was happening in our union.</p> <p>23 Q. That wasn't my question.</p> <p>24 My question was who is VDV, and you said you</p> <p>25 don't know.</p>	<p style="text-align: right;">Page 358</p> <p>1 A. I'm not sure.</p> <p>2 Q. Oh.</p> <p>3 A. I didn't have a conversation. It could have</p> <p>4 been Mike Van de Ven. I don't know.</p> <p>5 Q. What is that name again?</p> <p>6 A. Mike Van de Ven.</p> <p>7 Q. Mike Van de Ven?</p> <p>8 And what was his position at Southwest</p> <p>9 Airlines?</p> <p>10 THE COURT: We've got to keep more</p> <p>11 separation between questions and answers to keep a</p> <p>12 clean record.</p> <p>13 You can answer, if you know.</p> <p>14 THE WITNESS: At the time he was one of</p> <p>15 the executive officers. I think he was the chief</p> <p>16 operating officer.</p> <p>17 BY MR. PRYOR:</p> <p>18 Q. Okay. When you told me you were not going to</p> <p>19 be evasive at the beginning of our conversation, I</p> <p>20 asked you about who VDV is, and you said you are not</p> <p>21 sure.</p> <p>22 A. I'm not 100 percent sure. I am making</p> <p>23 assumptions because I wasn't a part of the meeting</p> <p>24 and I did not have a conversation with Brian about</p> <p>25 this meeting.</p>
<p style="text-align: right;">Page 359</p> <p>1 Q. There must be lots of other VDV's, right, just</p> <p>2 like there must be a lot of other Sonyas.</p> <p>3 You don't know who he's talking about. You</p> <p>4 can't be sure. Right?</p> <p>5 A. I'm assuming.</p> <p>6 Q. Well, you are assuming after I forced you to.</p> <p>7 You wouldn't assume it before, would you?</p> <p>8 Are you being evasive?</p> <p>9 A. No.</p> <p>10 MR. PRYOR: Let's look at exhibit --</p> <p>11 BY MR. PRYOR:</p> <p>12 Q. By the way, why are you being -- well, why are</p> <p>13 you reluctant to say that Brian Talburt is having</p> <p>14 behind-the-scenes conversations with senior</p> <p>15 management of Southwest Airlines about using social</p> <p>16 media as a tool?</p> <p>17 Why would you be concerned about that?</p> <p>18 A. You asked me about knowing about it, and I was</p> <p>19 trying to explain that I did not know about this</p> <p>20 meeting and I wasn't a part of it and I didn't</p> <p>21 participate in it, so I don't have intimate</p> <p>22 knowledge about this.</p> <p>23 Q. Okay.</p> <p>24 And it's your testimony, under oath, and your</p> <p>25 credibility can be viewed in this context, that you</p>	<p style="text-align: right;">Page 360</p> <p>1 weren't trying to be evasive about knowing who VDV</p> <p>2 is, true?</p> <p>3 A. Yes. I was not trying to be evasive.</p> <p>4 Q. All right.</p> <p>5 MR. PRYOR: Let's look at Exhibit 27.</p> <p>6 And we move for its admission.</p> <p>7 THE COURT: I have Union objections from</p> <p>8 this morning.</p> <p>9 Anything from Southwest?</p> <p>10 MR. McKEEBY: No objection from Southwest.</p> <p>11 THE COURT: I know my ruling.</p> <p>12 Do you want a sidebar?</p> <p>13 MR. GREENFIELD: No, your Honor.</p> <p>14 THE COURT: I will overrule on two hearsay</p> <p>15 exception grounds and admit it into evidence.</p> <p>16 You can publish 27.</p> <p>17 (The referred-to document was admitted</p> <p>18 into evidence as Plaintiff's Exhibit 27.)</p> <p>19 BY MR. PRYOR:</p> <p>20 Q. Ma'am, do you want a hard copy of this email</p> <p>21 string?</p> <p>22 It is several pages long.</p> <p>23 Do you recognize it?</p> <p>24 A. Yes.</p> <p>25 Q. Okay.</p>

<p style="text-align: right;">Page 361</p> <p>1 A. What is up here?</p> <p>2 Q. Let's go to the beginning of this email.</p> <p>3 And it's forwarding a very long dissertation by</p> <p>4 someone, apparently Mike Casper -- oh, yes, it is</p> <p>5 Mike Casper -- with a whole host of complaints about</p> <p>6 Local 556.</p> <p>7 Do you see that?</p> <p>8 I'm happy to read them if you want me to read</p> <p>9 all of his complaints.</p> <p>10 Okay. I will try a few.</p> <p>11 "Hold the executive board and the rest of the</p> <p>12 residents of our union accountable. A resounding no</p> <p>13 vote is an acceptable thing.</p> <p>14 "11 of those 15 positions, the incumbents were</p> <p>15 not reelected by a very wide margin. It wasn't even</p> <p>16 close. Many of these incumbents were entrenched for</p> <p>17 years and years."</p> <p>18 It goes on.</p> <p>19 "The new executive board went about their way</p> <p>20 and assumed their positions with high hopes and then</p> <p>21 they were kicked out."</p> <p>22 Do you want me to read more, or do you accept</p> <p>23 that Mr. Casper was writing and complaining about</p> <p>24 Local 556?</p> <p>25 Would that be accurate?</p>	<p style="text-align: right;">Page 362</p> <p>1 A. Yes.</p> <p>2 Q. Okay. That's union activity, right?</p> <p>3 A. He's expressing his opinion about union</p> <p>4 activity.</p> <p>5 Q. No, no. Him expressing his opinion is union</p> <p>6 activity, true?</p> <p>7 A. I think so.</p> <p>8 Q. You think so.</p> <p>9 As union president, someone is expressing their</p> <p>10 opinion about the union to another union member, and</p> <p>11 you think so, you don't know so, that that is</p> <p>12 protected union activity, right?</p> <p>13 A. I guess I'm stuck on activity and being</p> <p>14 actually union activity taking action, and</p> <p>15 conversations between members, expressing their</p> <p>16 views about a union, yes, that would be --</p> <p>17 Q. Well, if we are talking about being stuck, I'm</p> <p>18 stuck on a union president that isn't willing to say</p> <p>19 that a union member has the right to object to her</p> <p>20 union and it be union activity.</p> <p>21 A. Yes.</p> <p>22 Q. You said, "I think so."</p> <p>23 MR. PRYOR: All right. So let's go to --</p> <p>24 it is page 98.</p> <p>25 MR. GREENFIELD: Page 98? Okay. I</p>
<p style="text-align: right;">Page 363</p> <p>1 thought we were talking about another exhibit. I'm</p> <p>2 sorry.</p> <p>3 MR. PRYOR: We are on that page.</p> <p>4 BY MR. PRYOR:</p> <p>5 Q. Okay. So this is from Tina. And who is Tina?</p> <p>6 A. Tina Coffee was a board member at that time.</p> <p>7 Q. How were you able to recognize Tina and tell us</p> <p>8 who Tina was?</p> <p>9 There's got to be other Tinas there.</p> <p>10 Are you sure it's the right Tina? You weren't</p> <p>11 sure about VDV.</p> <p>12 A. The previous screen had her initials on it and</p> <p>13 she was a board member, so I worked very closely</p> <p>14 with her.</p> <p>15 Q. So a board member is forwarding this to</p> <p>16 someone. It says it is to -- do you see on page 99?</p> <p>17 It might be better if you had a copy.</p> <p>18 MR. PRYOR: Can I approach the witness,</p> <p>19 your Honor?</p> <p>20 THE COURT: You may.</p> <p>21 MR. McKEEBY: Thank you.</p> <p>22 BY MR. PRYOR:</p> <p>23 Q. Where it says "to" -- oh, there it is right</p> <p>24 there.</p> <p>25 Who is it being forwarded to?</p>	<p style="text-align: right;">Page 364</p> <p>1 A. I'm not sure.</p> <p>2 Q. Okay.</p> <p>3 THE COURT: We can't hear you if you are</p> <p>4 not at a mic.</p> <p>5 BY MR. PRYOR:</p> <p>6 Q. Do you know why the name of who that was</p> <p>7 forwarded to is blacked out?</p> <p>8 A. No.</p> <p>9 Q. All right. Let's go back to, then your board</p> <p>10 member then sends it to Brian Talburt.</p> <p>11 Is that right?</p> <p>12 A. No.</p> <p>13 Q. Mr. Nevarez sends it?</p> <p>14 A. It looks like it was a Rocky Mountain that sent</p> <p>15 it to Mr. Talburt, if I'm reading it correctly.</p> <p>16 Q. Okay. We will get to Rocky Mountain.</p> <p>17 I'm talking about the one right above where it</p> <p>18 says, "Leg-breaking time for Casper the Ghost scab."</p> <p>19 That was written by Mr. Nevarez, correct?</p> <p>20 A. Yes.</p> <p>21 Q. And you received this email string, correct?</p> <p>22 Surely you remember someone threatening to</p> <p>23 break the leg and calling someone a scab.</p> <p>24 A. Yes.</p> <p>25 Q. By the way, "scab" is a very derogatory term to</p>

<p style="text-align: right;">Page 365</p> <p>1 a union member or a union supporter, true?</p> <p>2 A. "Scab" is a term used to describe someone who</p> <p>3 has opted out of the union or who crosses a picket</p> <p>4 line.</p> <p>5 Q. So "scab" is not a derogatory term to you as</p> <p>6 former union president, right?</p> <p>7 It's just a descriptive term --</p> <p>8 A. Yes.</p> <p>9 Q. -- as opposed to saying someone crossing a</p> <p>10 picket line.</p> <p>11 That scab is not a negative derivation of that,</p> <p>12 right?</p> <p>13 A. It's a descriptive term to describe behavior</p> <p>14 that is -- someone that has voluntarily chosen to</p> <p>15 not support the union or opt out of the union.</p> <p>16 Q. Okay. But it is not a derogatory term, right?</p> <p>17 A. It is not complimentary --</p> <p>18 Q. Well, wait a minute.</p> <p>19 A. -- but it is a descriptive word.</p> <p>20 Q. So as a union member, you are sitting here</p> <p>21 telling this jury that referring to someone as scab,</p> <p>22 scab is not really negative. It's not positive,</p> <p>23 it's not negative. Right?</p> <p>24 A. I'm saying it is a fact of a description of</p> <p>25 somebody, the actual definition of it.</p>	<p style="text-align: right;">Page 366</p> <p>1 Q. Okay. Listen to my question. I'm going to</p> <p>2 give you your chance.</p> <p>3 Is using the term "scab" to refer to someone a</p> <p>4 negative term?</p> <p>5 A. Somebody could consider it negative, yes.</p> <p>6 Q. Okay.</p> <p>7 How many questions did it take me to get you to</p> <p>8 admit the basic fact that "scab" is a negative term?</p> <p>9 Tell me. I think it is four or five.</p> <p>10 Why was that so hard?</p> <p>11 Because your second vice president is referring</p> <p>12 to a member of the union as a scab, right?</p> <p>13 A. Someone that has opted out of the union isn't a</p> <p>14 member.</p> <p>15 Q. Are you telling me Mike Casper had opted out?</p> <p>16 A. I don't know if he had opted out at this point.</p> <p>17 Q. Then let's just stick with what you do know.</p> <p>18 Mike Casper represents himself as a union</p> <p>19 member at this time. You can read what he writes.</p> <p>20 You are telling me, maybe he wasn't? But</p> <p>21 listen --</p> <p>22 A. He opted out at one point and he was not a</p> <p>23 member.</p> <p>24 Q. But whether he had opted out or not, he never</p> <p>25 crossed a picket line, did he?</p>
<p style="text-align: right;">Page 367</p> <p>1 A. Not to my knowledge.</p> <p>2 Q. Okay. So this is just -- just more negative</p> <p>3 connotation about anyone that opposes union</p> <p>4 leadership, true?</p> <p>5 A. We just have different opinions on what the</p> <p>6 definition of "scab" is.</p> <p>7 Q. Oh, I thought we came to an agreement.</p> <p>8 It turns out once again now it went from being</p> <p>9 positive, neutral, negative, now it is positive</p> <p>10 again?</p> <p>11 A. No. I'm just saying that someone that hasn't</p> <p>12 crossed a picket line, that's not the only</p> <p>13 definition of somebody that can be a "scab."</p> <p>14 Q. So when you received this email where your</p> <p>15 second vice president refers to leg-breaking time</p> <p>16 for Casper the Ghost scab for having the temerity to</p> <p>17 object to his union's activities, what did you do?</p> <p>18 A. I spoke to Brett.</p> <p>19 Q. You did?</p> <p>20 A. Yes.</p> <p>21 Q. You spoke to who?</p> <p>22 A. Brett. Mr. Nevarez.</p> <p>23 Q. And you told Brett, Don't do that?</p> <p>24 A. I told him he shouldn't be even making jokes</p> <p>25 like that and shouldn't be talking that way about</p>	<p style="text-align: right;">Page 368</p> <p>1 anyone.</p> <p>2 Q. Isn't, in fact, what you told him is, Don't put</p> <p>3 it in writing?</p> <p>4 A. I told him he shouldn't be talking, period,</p> <p>5 that way.</p> <p>6 Q. Let me just get an answer to my question.</p> <p>7 Didn't you, in fact -- have you spoken to</p> <p>8 Mr. Nevarez recently?</p> <p>9 A. No.</p> <p>10 Q. Didn't you, in fact, tell him he shouldn't be</p> <p>11 putting that type of thing in writing?</p> <p>12 A. I always told my team that anything they put in</p> <p>13 writing, they needed to be prepared that it should</p> <p>14 be something they would be comfortable with the</p> <p>15 public seeing, and if they weren't, don't put it in</p> <p>16 writing. That was what I told everyone in Union</p> <p>17 work.</p> <p>18 Q. All right.</p> <p>19 So by the way, those previous emails we looked</p> <p>20 at, did you tell Mr. Nevarez back then, and</p> <p>21 Mr. Thompson and whoever else was making fun of</p> <p>22 Charlene, and the fact they misused her dues, did</p> <p>23 you tell them, Hey, don't put that kind of stuff in</p> <p>24 writing, that's improper?</p> <p>25 A. No. And they didn't misuse her union dues.</p>

<p style="text-align: right;">Page 369</p> <p>1 Q. You just told us, whenever they do something 2 improper in writing, you told us that was improper 3 at the time. You said, Yeah, they shouldn't have 4 said that. 5 Surely you told them, Don't put that in 6 writing, and yet here we go again, here it is. 7 Are they just not listening to you? 8 A. I don't control Mr. Nevarez. 9 Q. So Mr. Nevarez writes, "Leg-breaking time for 10 Casper the Ghost scab." 11 Then someone responds and says, "He is such an 12 ass." 13 And that is talking about Mr. Casper. 14 Do you see this email? 15 A. Yes. 16 Q. And who is Rocky Mountain? 17 A. I don't know. 18 Q. You don't know that Rocky Mountain is the 19 personal email address of Mr. Hafner, one of the top 20 people at Southwest Airlines? 21 MR. GREENFIELD: Objection, your Honor. 22 Lack of foundation. 23 THE COURT: Sustained. 24 THE WITNESS: I did not utilize Southwest 25 leaders' personal email addresses. I didn't have</p>	<p style="text-align: right;">Page 370</p> <p>1 them. My communication with Southwest leadership 2 was always through their WNCO email, company email 3 addresses. 4 BY MR. PRYOR: 5 Q. So you don't know who Rocky Mountain is? 6 A. No. 7 Q. Would it shock you that a member of management 8 of Southwest Airlines would agree with leg-breaking 9 time for Casper the Ghost scab by saying, "He's such 10 an ass"? 11 A. Yes. 12 Q. I will stick with shocking. 13 All right. 14 MR. PRYOR: Let's go to page 97. 15 BY MR. PRYOR: 16 Q. And this an email from Brian. 17 And Brian Talburt's your supporter, a person 18 you appoint to committees, a person who sends you 19 information, right? 20 A. Yes. 21 Q. And he says, "Audrey, a couple of things about 22 this thread. Please delete Brett's comment about 23 leg-breaking." 24 Do you see that? 25 A. Yes.</p>
<p style="text-align: right;">Page 371</p> <p>1 Q. Do you know why he said that? 2 A. Because it wasn't appropriate for Brett to say 3 that. 4 Q. Well, would deleting it be the thing to do 5 about an inappropriate comment, or would it be to 6 keep a record of it and take appropriate action? 7 A. Anything that is out on social media that is 8 inappropriate, my advice to people is always first 9 to delete it if they are made aware that it is 10 something that they shouldn't have posted. 11 Q. So this communication about leg breaking and 12 he's such an ass, you agreed that it should be 13 deleted? 14 A. I believe in my conversation with Brett, I told 15 him he should delete it. 16 Q. And then he goes on to say, "There is a private 17 email between Mike and I. I take this stuff very 18 seriously." 19 Do you know that Mike is Mike Hafner? 20 A. I'm assuming so, just based off of you saying 21 that that was who Rocky Mountain was. I had no -- I 22 did not know that. 23 Q. Okay. So you now assume Rocky Mountain is 24 Mr. Hafner? 25 A. Based off of what you stated.</p>	<p style="text-align: right;">Page 372</p> <p>1 Q. Okay. Based on me telling you? 2 A. Yes. 3 Q. Oh, no. You don't have to accept that. I will 4 tell you that, but I don't want your testimony -- 5 A. I don't know who -- I don't know who Rocky 6 Mountain is. 7 Q. Okay. All right. 8 A. I don't know who that email address belongs to. 9 And again, there were a number of Mikes in 10 Southwest leadership -- 11 Q. Okay. 12 A. -- then and now on the inflight side. 13 Q. I recall you telling me you would be shocked 14 that it was Mr. Hafner. 15 You don't have to accept what I'm saying about 16 it. We will see if another witness can testify 17 about that. 18 So it says, based -- tell you what -- well, I 19 was going to ask you to assume it was Mr. Hafner so 20 you could interpret what is being said here, but I 21 actually don't want you to do that. 22 In context, do you know what Mr. Talburt is 23 saying when he says, "I would hate to breach a 24 confidence he obviously had in me based on the 25 long-term relationship we developed. He's a great</p>

<p style="text-align: right;">Page 373</p> <p>1 person."</p> <p>2 And then it goes on.</p> <p>3 So he's revealing something to you that he</p> <p>4 wants to make sure doesn't become public, at least</p> <p>5 that much is clear, right?</p> <p>6 MR. GREENFIELD: Objection, your Honor,</p> <p>7 calls for speculation.</p> <p>8 THE COURT: I will only allow her to</p> <p>9 answer if she has personal knowledge.</p> <p>10 THE WITNESS: I don't.</p> <p>11 BY MR. PRYOR:</p> <p>12 Q. Do you have an understanding -- how did you</p> <p>13 interpret this email when you received it?</p> <p>14 A. That Brian was sharing it with me. That he was</p> <p>15 concerned about breaching a confidence. But he goes</p> <p>16 on to say, at the end of the day, he was talking</p> <p>17 about his job, and he didn't want to hold anything</p> <p>18 back that he believed, you know, could be helpful.</p> <p>19 Q. Okay. So would you agree with me that what</p> <p>20 this email is saying is that I'm having confidential</p> <p>21 communications with senior members of Southwest</p> <p>22 Airlines's management, and I want to keep it</p> <p>23 confidential, I don't want to get anybody in</p> <p>24 trouble, but if push comes to shove and it is my job</p> <p>25 and my family, I will do what I have to do.</p>	<p style="text-align: right;">Page 374</p> <p>1 Is that fair?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Let's go back up to the top of page 98.</p> <p>4 I'm going to read a part of what he says here.</p> <p>5 He says, "This is just an illustration of the</p> <p>6 types of conversations I have had with senior</p> <p>7 Southwest management re dealing with problem people,</p> <p>8 and in this case specifically, Hafner and Casper."</p> <p>9 Did I read that correctly?</p> <p>10 A. Yes.</p> <p>11 Q. And Hafner and Casper are both union members?</p> <p>12 A. No.</p> <p>13 Q. Which one is not?</p> <p>14 A. Greg Hafner.</p> <p>15 Q. Is he an objector?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. So we are talking about an objector and</p> <p>18 a union member, and Brian Talburt is telling you,</p> <p>19 I'm having these secret conversations with Southwest</p> <p>20 senior management about how to deal with these</p> <p>21 problem people, true?</p> <p>22 A. Yes.</p> <p>23 Q. I'm sure, when you saw that, you would say,</p> <p>24 That is totally inappropriate.</p> <p>25 Is that how you reacted?</p>
<p style="text-align: right;">Page 375</p> <p>1 A. No.</p> <p>2 Q. It is totally inappropriate, isn't it?</p> <p>3 A. For a flight attendant to have conversations</p> <p>4 with Southwest leaders, no, that is not</p> <p>5 inappropriate.</p> <p>6 Q. Was that my question, ma'am?</p> <p>7 Of course it's not.</p> <p>8 You can talk to anybody you want.</p> <p>9 It's inappropriate to have a conversation with</p> <p>10 Southwest senior management about trying to deal</p> <p>11 with people, an objector and a union member that are</p> <p>12 problematic?</p> <p>13 A. Yes, that is inappropriate.</p> <p>14 Q. Okay. That was my question.</p> <p>15 You are still telling me under oath you are not</p> <p>16 trying to be evasive, right?</p> <p>17 A. No, sir, I'm not.</p> <p>18 Q. You really thought my question was, is it okay</p> <p>19 for a flight attendant to talk to a member of senior</p> <p>20 management?</p> <p>21 That is how you answered my question, and that</p> <p>22 wasn't being evasive, right?</p> <p>23 A. No, sir, I was not trying to be evasive.</p> <p>24 Q. And then there is an email above that on</p> <p>25 page 97.</p>	<p style="text-align: right;">Page 376</p> <p>1 It says -- this is from you -- "Brian, thanks</p> <p>2 for sending. Will go through when done with the</p> <p>3 negotiations. Anything you have where you have used</p> <p>4 'public execution' in writing?"</p> <p>5 Is that -- so you are sending an email to Brian</p> <p>6 trying to find out whether or not he's used the term</p> <p>7 "public execution" in writing, right?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. You were representing him for making</p> <p>10 comments about executing people?</p> <p>11 A. No. I was assisting our grievance specialist</p> <p>12 in his grievance where he had made comments about a</p> <p>13 public execution and had stated repeatedly that he</p> <p>14 did not mean really executing somebody, and that he</p> <p>15 had had numerous conversations with people,</p> <p>16 including Southwest leaders, explaining what he</p> <p>17 meant.</p> <p>18 Which is why I was asking him if there was</p> <p>19 anything in writing that depicted what he was really</p> <p>20 trying to say, to defend that it was not him</p> <p>21 actually literally saying somebody needed to be</p> <p>22 publically executed.</p> <p>23 Q. I'm not saying --</p> <p>24 THE COURT: Did you have an objection?</p> <p>25</p>

<p style="text-align: right;">Page 377</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. -- he was actually talking about public</p> <p>3 execution.</p> <p>4 THE COURT: Hold on. Hold on.</p> <p>5 Do you need a sidebar?</p> <p>6 MR. GREENFIELD: Yes, your Honor.</p> <p>7 (Thereupon, the following proceedings were</p> <p>8 had at sidebar:)</p> <p>9 MR. GREENFIELD: Sorry, Mr. Pryor, to</p> <p>10 interrupt your flow.</p> <p>11 Because of my vantage point, I caught</p> <p>12 another witness who has entered the courtroom. I</p> <p>13 know we've invoked the rule, so I just wanted to</p> <p>14 make the Court aware of it.</p> <p>15 It is Mr. Parrott.</p> <p>16 THE COURT: Who is he?</p> <p>17 MR. GREENFIELD: Mr. John Parrott.</p> <p>18 THE COURT: Okay. Kevin --</p> <p>19 MR. GREENFIELD: John Parrott is here.</p> <p>20 THE COURT: Okay.</p> <p>21 MR. GREENFIELD: He's our next witness, I</p> <p>22 think.</p> <p>23 I just wanted to be able to get him out,</p> <p>24 if you didn't want to him to hear what was going on.</p> <p>25 THE COURT: So we need to take a lunch</p>	<p style="text-align: right;">Page 378</p> <p>1 break and get the witness out, but you have got a</p> <p>2 live question.</p> <p>3 Or do you have a live question?</p> <p>4 Did she give you a satisfactory answer?</p> <p>5 If you another question or two, I'll --</p> <p>6 MR. PRYOR: I can break any time. This is</p> <p>7 a great time.</p> <p>8 THE COURT: Okay.</p> <p>9 Then let me call our lunch break now. You</p> <p>10 can pick back up and jump back to that question, if</p> <p>11 you want to, after lunch, and then we'll get the</p> <p>12 witness out of the room.</p> <p>13 MR. PRYOR: Thank you, your Honor.</p> <p>14 MR. GREENFIELD: Can we have some sort</p> <p>15 of -- something to the jury that I'm not trying to</p> <p>16 put the kibosh on what is happening here, just that</p> <p>17 there was some protocol --</p> <p>18 MR. PRYOR: It is a witness.</p> <p>19 MR. GREENFIELD: -- that had to be talked</p> <p>20 about?</p> <p>21 Thank you, your Honor.</p> <p>22 (Thereupon, the sidebar was concluded and</p> <p>23 the following proceedings were held in open</p> <p>24 court:)</p> <p>25 THE COURT: Okay. We had to talk about a</p>
<p style="text-align: right;">Page 379</p> <p>1 witness issue; it is not anyone's fault. But I</p> <p>2 notice that it is after noon, and so we should give</p> <p>3 y'all your lunch break.</p> <p>4 So I'm going to ask that we pause the</p> <p>5 action here. We will pick back up with Ms. Stone's</p> <p>6 testimony after lunch.</p> <p>7 So let's take an hour lunch break. It's</p> <p>8 12:07. We will be back here at 1:07, and then we</p> <p>9 will back on the record.</p> <p>10 Same three instructions as always. You</p> <p>11 can only talk to your fellow jurors, just not about</p> <p>12 the case. Don't talk to anyone else in the</p> <p>13 courthouse and don't do any research on the case.</p> <p>14 All rise for the jury.</p> <p>15 (The jurors exited the courtroom.)</p> <p>16 THE COURT: All right.</p> <p>17 Ms. Stone, you're free to leave the</p> <p>18 witness stand.</p> <p>19 But now that you are a witness, you are a</p> <p>20 ward of the Court. That means you are with me, and</p> <p>21 so you are not supposed to talk to a lawyer or</p> <p>22 anyone else about the case until I excuse you from</p> <p>23 your testimony in this case.</p> <p>24 Does that make sense?</p> <p>25 (Thereupon, the witness exited the</p>	<p style="text-align: right;">Page 380</p> <p>1 courtroom.)</p> <p>2 THE COURT: Okay. Any other issues anyone</p> <p>3 has that they want to bring up now?</p> <p>4 Okay. Let's be back in here maybe at five</p> <p>5 minutes, so 1:02 is our target time. We can handle</p> <p>6 anything that comes up in the meantime.</p> <p>7 And then we will bring you in after we</p> <p>8 have handled any legal issues and then continue with</p> <p>9 your testimony.</p> <p>10 MR. GREENFIELD: And your Honor, just</p> <p>11 maybe for the information of the witness, why we</p> <p>12 took the break.</p> <p>13 THE COURT: Yes. We took the break</p> <p>14 because a witness came into the room. So witnesses</p> <p>15 can't be in the room because we have invoked the</p> <p>16 rule in this case, which means witnesses have to sit</p> <p>17 out in the hall unless you've got special</p> <p>18 dispensation to sit at the counsel table.</p> <p>19 So witnesses can't be in the room.</p> <p>20 Okay. With that, we will take our break.</p> <p>21 We will see you at 1:02.</p> <p>22 (Recess.)</p> <p>23 (In chambers).</p> <p>24 THE COURT: Hello. I'm Brantley. You are</p> <p>25 not in trouble. Don't worry.</p>

<p style="text-align: right;">Page 381</p> <p>1 I need to ask you a couple of questions</p> <p>2 because I know the lawyers will ask me, because I</p> <p>3 have to tell them what you wrote me.</p> <p>4 So I know you say you didn't know</p> <p>5 Charlene, if y'all went to high school together, you</p> <p>6 didn't know her.</p> <p>7 JUROR NO. 8: Right.</p> <p>8 THE COURT: Do you know anything about</p> <p>9 her?</p> <p>10 JUROR NO. 8: I just kind of --</p> <p>11 whenever -- I kept saying I kind of -- she looked</p> <p>12 familiar. I was thinking maybe it was from around</p> <p>13 town. Because I worked at the bank. I was thinking</p> <p>14 maybe.</p> <p>15 And then today whenever they said that she</p> <p>16 was from Lake Dallas, it started kind of clicking.</p> <p>17 And then I saw her maiden name in one of the</p> <p>18 documents that was on there. And I was, yeah, that</p> <p>19 is her, I think.</p> <p>20 THE COURT: Was it Gale?</p> <p>21 JUROR NO. 8: Batt.</p> <p>22 THE COURT: Batt.</p> <p>23 JUROR NO. 8: And she was an upper</p> <p>24 classman. So I really don't know -- I might know</p> <p>25 the group of girls she hung around with. We weren't</p>	<p style="text-align: right;">Page 382</p> <p>1 friends.</p> <p>2 THE COURT: Okay.</p> <p>3 JUROR NO. 8: And I don't really know any</p> <p>4 more that, that I recall anyway.</p> <p>5 THE COURT: Yes. Okay.</p> <p>6 And let me ask you sort of like the</p> <p>7 questions we asked yesterday.</p> <p>8 Is there anything you told me about that</p> <p>9 or anything that you know of about her would that</p> <p>10 keep you from being impartial in this case?</p> <p>11 JUROR NO. 8: No.</p> <p>12 THE COURT: Okay. Got it.</p> <p>13 So I will go tell them. They may want to</p> <p>14 ask you the same questions, ask you some different</p> <p>15 ones. We will try to clean that all up as soon as</p> <p>16 we can and get back rolling.</p> <p>17 Thank you for telling me. You did the</p> <p>18 absolute right thing.</p> <p>19 JUROR NO. 8: And if they ask me why I was</p> <p>20 in here, am I allowed to tell them? Or no?</p> <p>21 THE COURT: How about, don't tell them.</p> <p>22 Just tell them it is a judicial issue and the judge</p> <p>23 will take care of it.</p> <p>24 I'm sorry.</p> <p>25 JUROR NO. 8: It is okay. I just wanted</p>
<p style="text-align: right;">Page 383</p> <p>1 to know.</p> <p>2 THE COURT: You are right. It is a tough</p> <p>3 question. Thank you.</p> <p>4 (Recess.)</p> <p>5 (In the courtroom).</p> <p>6 THE COURT SECURITY OFFICER: All rise.</p> <p>7 THE COURT: You can be seated.</p> <p>8 It wouldn't be day 2 of trial if we didn't</p> <p>9 have a strange jury issue.</p> <p>10 So here it is, strange jury issue of the</p> <p>11 day. Hopefully, the only we will get in trial.</p> <p>12 We have a juror who wrote me a note. It</p> <p>13 is Juror No. 8. Sonia Freeman is her name. She</p> <p>14 sits in the back corner.</p> <p>15 And Mr. Frye, you can go ahead and hand</p> <p>16 out the note she wrote me. And I will read it to</p> <p>17 you so it is in the record.</p> <p>18 She says, "Not sure, but may have went to</p> <p>19 high school with Charlene. I was at Lake Dallas</p> <p>20 High School 1981 to 1985. Did not know her, if so,</p> <p>21 but wanted to disclose this, if so." Signed, Sonia</p> <p>22 Freeman.</p> <p>23 MR. PRYOR: Can we inquire of my client?</p> <p>24 THE COURT: Yes, you may.</p> <p>25 MR. PRYOR: What was the year?</p>	<p style="text-align: right;">Page 384</p> <p>1 THE COURT: The year was 1981 to 1985,</p> <p>2 lake Dallas High School.</p> <p>3 (Pa.)use</p> <p>4 THE COURT: Do you know anything yet? Was</p> <p>5 she at Lake Dallas High School?</p> <p>6 MR. PRYOR: She was at Lake Dallas High</p> <p>7 School between 1981 and 1985. She graduated in</p> <p>8 1983. She does not recognize the juror.</p> <p>9 THE COURT: Okay. And so what I will say</p> <p>10 is, I knew when I got this note, y'all might have</p> <p>11 some other questions. I went ahead and asked her</p> <p>12 some of the questions I knew y'all would want to</p> <p>13 ask, and then y'all may have others.</p> <p>14 I asked her, Well, did you hear anything</p> <p>15 about Charlene? And she said, No. She thought --</p> <p>16 if this is the same person -- that Charlene was an</p> <p>17 upper classman. And that math checks out, because</p> <p>18 Sonia graduated in '85; you in '83.</p> <p>19 She said she may have known some friends</p> <p>20 in the same group that your group of friends in, but</p> <p>21 she didn't really know you specifically. Didn't</p> <p>22 have any recollections of anything anyone ever said</p> <p>23 about you.</p> <p>24 I asked her two other questions. One,</p> <p>25 Based on your knowledge of her, but not really</p>

<p style="text-align: right;">Page 385</p> <p>1 knowing her, could you be fair and impartial? She</p> <p>2 said without hesitation, Yes.</p> <p>3 Two is, I asked, Well, why did you</p> <p>4 disclose that today?</p> <p>5 And she said she could see you more</p> <p>6 closely today. You can see from the distance, she's</p> <p>7 a lot closer to you today, Ms. Carter, than she was</p> <p>8 yesterday in jury selection. And she your maiden</p> <p>9 name on some of the documents that we've gone</p> <p>10 through in evidence this morning.</p> <p>11 So I don't think she was genuinely trying</p> <p>12 to lay behind the log, but she's closer to you and</p> <p>13 she saw your maiden name, so that triggered a</p> <p>14 memory.</p> <p>15 So my question is, do y'all want to ask her</p> <p>16 further questions? Because I have no problem if</p> <p>17 anyone wants to ask her further questions.</p> <p>18 MR. McKEEBY: Can I confer briefly with my</p> <p>19 client?</p> <p>20 THE COURT: You may. Yep. How about</p> <p>21 this, I can put on the white noise, Mr. McKeeby.</p> <p>22 (Discussion off the record.)</p> <p>23 THE COURT: Okay. What do you think?</p> <p>24 MR. McKEEBY: I think counsel for the</p> <p>25 Union, as well as myself, would like to ask a couple</p>	<p style="text-align: right;">Page 386</p> <p>1 of follow-up questions, but --</p> <p>2 THE COURT: That sounds fine by me. And</p> <p>3 then I will let y'all ask any follow-up questions.</p> <p>4 We'll go Southwest, Union and then Carter.</p> <p>5 MR. PRYOR: Sure.</p> <p>6 THE COURT: Okay. Let's bring her in.</p> <p>7 She asked me, Well, can I tell the other</p> <p>8 jurors what it is about? I said, No.</p> <p>9 And this is sort of like criminal defense</p> <p>10 cases with multiple defendants, right? Like, you</p> <p>11 leave the room, Oh, are you talking to the cops?</p> <p>12 Who are you talking to?</p> <p>13 MR. McKEEBY: Should I take the podium</p> <p>14 or --</p> <p>15 THE COURT: You can take the podium. And</p> <p>16 I have asked --</p> <p>17 (The juror entered the courtroom.)</p> <p>18 THE COURT: Okay. Welcome back,</p> <p>19 Ms. Freeman. Thank you. You're under oath as a</p> <p>20 juror. We're not going to seat you in the witness</p> <p>21 box.</p> <p>22 Oh, can we just give her a handheld mic?</p> <p>23 Yeah, we're not used to having you talk. I'm sorry.</p> <p>24 Okay. So, Ms. Freeman, I told them what</p> <p>25 our exchange was, and then I gave them the option of</p>
<p style="text-align: right;">Page 387</p> <p>1 asking -- I gave them the option of asking you some</p> <p>2 questions. So Southwest, then the Union, then</p> <p>3 Carter is going to ask you questions very briefly.</p> <p>4 JUROR 8: Okay.</p> <p>5 THE COURT: Go for it.</p> <p>6 MR. McKEEBY: Okay.</p> <p>7 Hi, Ms. Freeman. Just a couple of</p> <p>8 questions to -- about the issue that you raised.</p> <p>9 Did you know any of -- did you hear</p> <p>10 anything or know anything about Ms. Carter in terms</p> <p>11 of, you know, what she did activities-wise or</p> <p>12 classes she took while you were in school together?</p> <p>13 JUROR 8: No.</p> <p>14 MR. McKEEBY: Did you know any of her</p> <p>15 friends?</p> <p>16 JUROR 8: If I did, I don't remember. I</p> <p>17 mean, I don't recall.</p> <p>18 JUROR 8: And I'm assuming, since you did</p> <p>19 the right thing and raised the issue voluntarily,</p> <p>20 that you can commit to everyone at this trial that,</p> <p>21 notwithstanding, that you had some overlap in high</p> <p>22 school with Ms. Carter, or may have, that you can</p> <p>23 keep your commitment to be fair and impartial to all</p> <p>24 of the parties; is that fair?</p> <p>25 JUROR 8: Yes.</p>	<p style="text-align: right;">Page 388</p> <p>1 MR. McKEEBY: Including my client,</p> <p>2 obviously --</p> <p>3 JUROR 8: Yes.</p> <p>4 MR. McKEEBY: -- Southwest Airlines?</p> <p>5 JUROR 8: Yes.</p> <p>6 MR. McKEEBY: Okay. That is all.</p> <p>7 THE COURT: Okay. Thank you, Mr. McKeeby.</p> <p>8 Mr. Greenfield, you can ask questions.</p> <p>9 MR. GREENFIELD: Yes. I know Lake Dallas</p> <p>10 is a growing area at this point in time.</p> <p>11 JUROR 8: Yes.</p> <p>12 MR. GREENFIELD: In the '80s, I'm</p> <p>13 presuming it was pretty small?</p> <p>14 JUROR 8: Yes, it was smaller.</p> <p>15 MR. GREENFIELD: How big was your</p> <p>16 graduating class?</p> <p>17 JUROR 8: I think a hundred.</p> <p>18 MR. GREENFIELD: A hundred.</p> <p>19 Do you have any older brothers or sisters?</p> <p>20 JUROR 8: Not from the school district.</p> <p>21 MR. GREENFIELD: All right. And did you</p> <p>22 personally have any extracurricular activities that</p> <p>23 you took part in while you were at Lake Dallas?</p> <p>24 JUROR 8: I was a manager on drill team,</p> <p>25 and that -- but I didn't interact with her, I don't</p>

<p style="text-align: right;">Page 389</p> <p>1 believe.</p> <p>2 MR. GREENFIELD: I'm sorry, say that last</p> <p>3 part.</p> <p>4 JUROR 8: I don't think I interacted with</p> <p>5 her. I mean, we had different friend groups.</p> <p>6 MR. GREENFIELD: So you said you were on</p> <p>7 the drill team. You think she might have been.</p> <p>8 But you didn't interact with her?</p> <p>9 JUROR 8: I think -- she was an</p> <p>10 upperclassman, and I believe she might have been on</p> <p>11 the drill team before I was.</p> <p>12 MR. GREENFIELD: Okay. That is all.</p> <p>13 Thank you so much.</p> <p>14 THE COURT: Thank you, Mr. Greenfield.</p> <p>15 Okay, Mr. Pryor, you can ask questions.</p> <p>16 MR. PRYOR: I'm impressed with all of you</p> <p>17 that can remember high school. It has been too long</p> <p>18 ago for me.</p> <p>19 And I'm disappointed, I mentioned Lake</p> <p>20 Dallas in my opening and that doesn't -- that didn't</p> <p>21 ring a bell with you?</p> <p>22 JUROR 8: No. No. I didn't even hear it.</p> <p>23 No, I heard it today, and I didn't hear it</p> <p>24 yesterday.</p> <p>25 MR. PRYOR: No worries.</p>	<p style="text-align: right;">Page 390</p> <p>1 Okay. So if -- I just want you to</p> <p>2 understand, if the Judge decides that you continue</p> <p>3 to sit on this jury, that is a decision that no one</p> <p>4 thinks that there is anything about your past that</p> <p>5 makes you anything but the same juror we thought you</p> <p>6 were before, impartial.</p> <p>7 You deliberate just as you would have</p> <p>8 before. You don't have to feel like, gee, because I</p> <p>9 recognize her from high school, that means I have to</p> <p>10 somehow give more favor to one side or another. You</p> <p>11 are just the same juror you always were if you</p> <p>12 continue to sit, right?</p> <p>13 JUROR 8: Yes. And I only recognized her</p> <p>14 because you said Lake Dallas today, and that kind of</p> <p>15 drew my attention. And then I started thinking --</p> <p>16 MR. PRYOR: Oh, okay, good.</p> <p>17 JUROR 8: -- did I know her last name?</p> <p>18 And then I seen her maiden name in a document, and</p> <p>19 then I was like, yes, I recognize that. But that is</p> <p>20 the only way I recognized her.</p> <p>21 MR. PRYOR: I think we all find that very</p> <p>22 understandable. Thank you.</p> <p>23 JUROR 8: Uh-huh.</p> <p>24 THE COURT: Okay. Any further questions?</p> <p>25 Okay. You are excused as a sort of</p>
<p style="text-align: right;">Page 391</p> <p>1 witness. You can go back to the jury room.</p> <p>2 (The Juror exited the courtroom.)</p> <p>3 THE COURT: Okay. So any concerns with</p> <p>4 this juror participating as a juror?</p> <p>5 MR. GREENFIELD: I have concerns, your</p> <p>6 Honor. I have concerns.</p> <p>7 THE COURT: Okay. Talk to me.</p> <p>8 MR. GREENFIELD: It was a small town at</p> <p>9 the time. It's close. I know they don't -- she</p> <p>10 doesn't have any specific --</p> <p>11 THE COURT: Can you grab that mic?</p> <p>12 MR. GREENFIELD: Yes. I apologize.</p> <p>13 I know she doesn't have any specific</p> <p>14 recollections. She does think maybe they were on</p> <p>15 the drill team together, different class points. I</p> <p>16 can't imagine I wouldn't have struck her if I didn't</p> <p>17 know that. If I would have had this information, I</p> <p>18 would have used one of my strikes on this witness.</p> <p>19 THE COURT: Against her.</p> <p>20 And would have not used a strike on who?</p> <p>21 MR. GREENFIELD: Well --</p> <p>22 THE COURT: Struck her instead of someone</p> <p>23 else?</p> <p>24 MR. GREENFIELD: We pooled strikes with</p> <p>25 Southwest, as you know. I think if we would have</p>	<p style="text-align: right;">Page 392</p> <p>1 known that as a team, we would have used one of them</p> <p>2 on 21. I can't -- I don't want to speak for them,</p> <p>3 but I would have pushed.</p> <p>4 MR. McKEEBY: I mean, I think it would</p> <p>5 have been a cause strike at that point.</p> <p>6 I mean, there is enough concern about --</p> <p>7 about bias that -- I understand she sat up there and</p> <p>8 said she was impartial, and I credit her. And I'm</p> <p>9 sure she's being as truthful as she can be.</p> <p>10 But, I mean, I would have asked that that</p> <p>11 be a cause strike, quite frankly. I don't know what</p> <p>12 the Court would have done. But I have the same</p> <p>13 concerns, I guess. But I don't really understand, I</p> <p>14 have not been in this situation before --</p> <p>15 THE COURT: Sure.</p> <p>16 MR. McKEEBY: -- and really know what is</p> <p>17 behind door No. 1.</p> <p>18 So to suggest how strongly I should object</p> <p>19 to this, because I don't want a mistrial, but --</p> <p>20 MR. GREENFIELD: And your Honor, if I may,</p> <p>21 a little bit more transparency.</p> <p>22 The last individual we decided about</p> <p>23 striking as a group was between Juror No. 8 and</p> <p>24 Juror No. 21.</p> <p>25 Ultimately, we decided on 8, which was</p>

<p style="text-align: right;">Page 393</p> <p>1 also struck by the plaintiffs. But she was our 2 other consideration. And if -- that would have been 3 her, if I would known that information. 4 THE COURT: And that is helpful for me to 5 know. That is why I asked. 6 Okay. So you wouldn't have used a strike 7 on -- you gave me a number, and I appreciate that. 8 Okay. Let me ask Carter's thoughts. 9 MR. PRYOR: Unless there was an 10 intentional misrepresentation on her part, once 11 she's seated on the jury, it is a question of 12 whether or not she has done something that indicates 13 a bias. 14 I don't think anyone here is saying she 15 was lying during voir dire. And so now, given she's 16 properly seated, has she shown any bias? I don't 17 think she has. 18 In terms of the exercise of their strikes, 19 I don't know what the law is on that. I don't know. 20 THE COURT: Understood. 21 Well, okay. Any last thoughts? 22 MR. McKEEBY: None that wouldn't just be 23 repetitive of what I said. 24 I mean, I just have concerns that -- I 25 mean, again, if I would have known this, we would</p>	<p style="text-align: right;">Page 394</p> <p>1 have certainly addressed the strikes differently. 2 THE COURT: Understood. 3 Well, what I will tell you is, I don't 4 think I've seen enough from what she said to kick 5 her on a cause basis, if we were to put ourselves 6 24-hours ago. 7 What I would say is, I'm sympathetic to 8 the notion of this late-breaking knowledge is 9 something that we all should have known yesterday. 10 We didn't because the Lake Dallas wasn't enough of a 11 trigger for her, but the maiden name was, combined 12 with Lake Dallas. 13 So I get that. She was not laying behind 14 the log. I don't think she's lying about being 15 impartial. But I'm taking your statement at face 16 value that you would have struck her instead of No. 17 8. 18 Does that make sense? 19 So because of that, what I need to do is 20 kick her off the jury at this point. We still have 21 a plus one. We still go on with a jury of 7. We 22 can't get below 6, right? And so we've lost 23 50 percent of our margin that I was hoping to keep 24 throughout the case. 25 And so it is incumbent on all of us --</p>
<p style="text-align: right;">Page 395</p> <p>1 most importantly, the jury -- to not lose anyone 2 else. 3 Does that make sense? 4 So again, I don't think she's biased or 5 partial in some way. But because we did deprive you 6 of the ability to have that knowledge when using 7 your peremptories -- and you are saying that you 8 would have used a peremptory on her -- I think I 9 have to credit that at this point. 10 So what I will do -- I guess the question 11 is how to break that to the jury. 12 I can do it cryptically, right, and bring 13 in all of the jury, and say, It's come to our 14 attention, through Juror No. 8, that an issue has 15 arisen that I think meets the legal test for me to 16 excuse her from her service as juror, and not say 17 anything beyond that. 18 They are not supposed to talk about the 19 case, right? And so earlier, the things she told me 20 indicates that no one else has an idea what note she 21 wrote. And so she's just off. She gathers her 22 things and leaves, and then she's excused as a 23 juror. 24 Any issue with that as the protocol on how 25 I orchestrate this?</p>	<p style="text-align: right;">Page 396</p> <p>1 Okay. I will do it. 2 And we will limp along with one reserve 3 and see if that can get us across the finish line. 4 So, sorry. Got to buckle up on Day 2 of 5 trial. That is when the curveballs really happen 6 with the jurors. 7 But let's bring them in, and I will excuse 8 Juror 8. 9 THE COURT SECURITY OFFICER: All rise for 10 the jury. 11 (The jurors entered the courtroom.) 12 THE COURT: Okay. You can be seated. 13 Okay. So sorry for the delay. 14 We had to have a discussion with Juror No. 15 8. And Juror No. 8 brought an issue to my 16 attention. 17 I'm not going to tell you what it is 18 because it doesn't matter. 19 But there is a reason she brought it to my 20 attention that meets the test for me excluding her 21 as a juror. 22 Because of that, then, I'm excusing you 23 Juror No. 8, as a juror. 24 We still have enough to keep going. We 25 will miss having you here because this is a good</p>

<p style="text-align: right;">Page 397</p> <p>1 group. I can tell from hearing conversation in the 2 hall. It is a collegial group. I know they are 3 going to serve admirably as a jury. 4 I'm sorry that you can't be a part of it, 5 but I appreciate you bringing the matter to my 6 attention. I thank for your service yesterday and 7 today. 8 Mr. Frye can still get you a certificate, 9 so don't leave just yet. He can go back and make 10 sure you get your certificate and are covered for 11 yesterday and today. We will all rise for you, then, 12 as you walk out. 13 (The excused juror exited the courtroom.) 14 THE COURT: Okay. Now we can be seated. 15 And Ms. Stone, you are still under oath. 16 And so I believe, Mr. Pryor, you were 17 still asking questions, so you can resume your line 18 of questioning, sir. 19 BY MR. PRYOR: 20 Q. Ms. Stone, let's go back to Exhibit 27. 21 It should be on your screen in a second. 22 There we go. 23 All right. We had talked about Mr. Talburt's 24 email to you about deleting the broken leg comment. 25 MR. PRYOR: The next page, Matt.</p>	<p style="text-align: right;">Page 398</p> <p>1 BY MR. PRYOR: 2 Q. And then that you would be shocked if the Mike 3 referred to was Mike Hafner, the member of senior 4 management, that that was Rocky Mountain. 5 Do you recall that? 6 A. Yes, sir. 7 Q. Okay. 8 MR. PRYOR: Let's go back to the last 9 paragraph of Brian's email to you. 10 No, go back. 11 No. Leave it alone. There you go. 12 Thanks. 13 BY MR. PRYOR: 14 Q. And he says, "So what I'm saying is, if we have 15 to use this type of evidence to secure my job, then 16 we have to do what we have to do." 17 THE COURT: One moment. 18 I have got to unmute their jury screens 19 right quick. 20 MR. PRYOR: Every time I look on the 21 screen, it is somewhere else. 22 THE COURT: Okay. There we go. 23 BY MR. PRYOR: 24 Q. All right. Then the next sentence is, "Please 25 just keep my thoughts in mind. BTW" -- presumably,</p>
<p style="text-align: right;">Page 399</p> <p>1 by the way -- "the Rocky Mountain email is Mike's 2 personal email. I do not like using company email 3 for obvious reasons." 4 Do you see that? 5 A. Yes, sir. 6 Q. Does that tell you who Mike is? 7 A. No. 8 Q. Okay. And where he says, "I do not like using 9 company email for obvious reasons," do you know what 10 he's talking about there? 11 A. No. 12 Q. Even though he had just told you that they are 13 talking about using social media to target people, 14 including Haffer and Casper. And that doesn't tell 15 you he wants to keep those kinds of communications 16 off company emails for obvious reasons? 17 You didn't read that in context? 18 A. He already said he wanted to keep it 19 confidential. 20 Q. It sounds like he's reiterating that point or 21 is there something else he's wanting to keep secret, 22 too? 23 A. I don't know if there is something else. 24 Q. So when you got this email, did you point out 25 that it is inappropriate? Did you respond and say,</p>	<p style="text-align: right;">Page 400</p> <p>1 That is inappropriate, we can't be targeting people 2 using social media and the assistance of Southwest 3 senior management? 4 A. No. 5 Q. Instead, you responded and talked about, Did 6 you ever use public execution in public, right? 7 A. Yes. 8 Q. Okay. 9 MR. PRYOR: Let's look at Exhibit 140. 10 We move for the admission of Exhibit 140. 11 MR. McKEEBY: This is another one with the 12 limiting instruction. 13 THE COURT: Understood. Same objections 14 as this morning, otherwise, for Southwest and Union? 15 MR. McKEEBY: Correct. 16 MR. GREENFIELD: Yes, your Honor. 17 THE COURT: Okay. So on 140, I'm 18 admitting it with the same limiting instruction I 19 gave you earlier. 20 This document No. 140 is relevant to the 21 claims against the Union, not relevant to the claims 22 against Southwest. 23 It is admitted. 24 You can publish. 25</p>

<p style="text-align: right;">Page 401</p> <p>1 (The referred-to document was admitted in 2 Evidence as Plaintiff's Exhibit 140.) 3 BY MR. PRYOR: 4 Q. Do you recognize this document? 5 A. No. 6 Q. Do you need a hard copy of it? 7 A. No, sir, but if I can just have a moment to 8 read through it. 9 Q. Okay. Could you bring the microphone closer to 10 your mouth? And I will bring you a hard copy, if 11 you want. It is hard for him to know where to 12 scroll. He's -- it is hard for him to know where I 13 want him to scroll. 14 Let me know when you are ready and I can ask 15 you a question. 16 A. Okay. I have just skimmed it. 17 Q. Okay. I will point to specific things you can 18 look at. If you think I'm taking it out of context, 19 you can read more. 20 So this is Mr. Talburt, Brian Talburt, your 21 supporter, who's emailing Sonya Lacore, senior 22 manager at Southwest Airlines, and Mike Hafner, 23 senior manager at Southwest Airlines, right? 24 A. Yes. 25 Q. Who is Jamie Willard?</p>	<p style="text-align: right;">Page 402</p> <p>1 A. She was also in a leadership position at 2 Southwest Airlines for inflight. 3 Q. And he again is communicating with senior 4 management at Southwest Airlines, it looks like, at 5 least in terms of specifics, complaining about 6 Mr. Casper and that social media could be utilized 7 to deal with that. 8 Is that fair about the general context? 9 A. Yes. I think so. 10 Q. Okay. And I can't remember between Casper and 11 Hafner, was Mr. Hafner, in 2014, an objector or a 12 union member? 13 A. I don't know. 14 Q. Okay. But it wouldn't matter in terms of the 15 Union's obligation to look after him, right? 16 A. Correct. 17 Q. And so when you got this email from Brian, in 18 October 13 of 2014, were you president then? 19 October? 20 A. Yes. When the email was sent, yes. 21 Q. You get an email -- yet another email talking 22 about targeting a union member or union objector 23 using social media. 24 Your response was what? 25 A. I don't -- I don't think I wrote -- I don't</p>
<p style="text-align: right;">Page 403</p> <p>1 recall writing anything back to Brian. 2 The conversation -- the email and the 3 conversations took place way before I was in a 4 leadership position. 5 Actually, I wasn't even working for the Union 6 when this email took place. 7 And I had had conversations with Brian 8 eventually of just stop sending me things because I 9 had a very busy job. And getting emails like this 10 just wasn't -- there wasn't anything for me to do 11 with that. I wasn't a part of the conversations and 12 asked him to just stop. 13 Q. Well, you know, as -- if I was an objector in 14 the union, I might think there were some things you 15 could do. 16 How about contact Southwest management and say, 17 Don't use social media policy to target my members 18 and objectors? How about doing that? 19 A. I had numerous conversations with members of 20 Southwest Airlines management about the social media 21 policy and what I thought was inappropriate 22 discipline being leveled for both members and 23 non-members. 24 Q. Okay. Listen to my question. 25 Did you have a conversation with them when you</p>	<p style="text-align: right;">Page 404</p> <p>1 said to them, Quit discussing with union members 2 about using social media policy to target union 3 members we don't like? Anything like that? 4 A. No. I never had a conversation with anybody in 5 management about specific members. 6 Q. You looked at several emails that raised those 7 issues and you never disavowed them to the 8 management of Southwest Airlines saying, Don't do 9 that? 10 A. No. 11 MR. PRYOR: Let's look at Exhibit 141. 12 BY MR. PRYOR: 13 Q. By the way, do you think you should have? Do 14 you think that you should have done that? 15 A. I didn't believe it was -- that I had any 16 control over the conversations that management chose 17 to have with an employee. A private conversation. 18 And I did have numerous conversations with leaders 19 about the social media policy. 20 Q. Oh, I am aware that you have, and we are going 21 to talk about it. 22 But you had no conversation with them 23 disavowing these type of back-door conversations and 24 efforts, even though it was against objectors and 25 union members, your union had an obligation to,</p>

<p style="text-align: right;">Page 405</p> <p>1 true?</p> <p>2 A. I did not have conversations, no.</p> <p>3 Q. Was there something not true about my</p> <p>4 statement, you couldn't say true?</p> <p>5 A. It is true.</p> <p>6 Q. Okay. That is what I was expecting to hear,</p> <p>7 not a limitation. It is true.</p> <p>8 MR. PRYOR: Let's look at Exhibit 141.</p> <p>9 Exhibit 141.</p> <p>10 THE COURT: Is it admitted?</p> <p>11 MR. PRYOR: Oh, I didn't offer it. I</p> <p>12 apologize.</p> <p>13 THE COURT: It's on the monitor. You can</p> <p>14 show it to the witness.</p> <p>15 MR. PRYOR: May I --</p> <p>16 THE COURT: Are you moving for its</p> <p>17 admission?</p> <p>18 MR. PRYOR: I'm sorry?</p> <p>19 THE COURT: Are you moving for its</p> <p>20 admission?</p> <p>21 MR. PRYOR: Yes, I am, Your Honor.</p> <p>22 THE COURT: Okay.</p> <p>23 MR. PRYOR: That's what they were waiting</p> <p>24 on. I should have said --</p> <p>25 THE COURT: Same objections as earlier,</p>	<p style="text-align: right;">Page 406</p> <p>1 limiting?</p> <p>2 MR. McKEEBY: Correct. With the request</p> <p>3 for the limiting instruction.</p> <p>4 THE COURT: Okay. I'm overruling the</p> <p>5 earlier objections, and I will admit it with the</p> <p>6 same limiting instruction, this one applies to the</p> <p>7 claims against the Union, not to the claims against</p> <p>8 Southwest.</p> <p>9 We are publishing.</p> <p>10 (The referred-to document was admitted in</p> <p>11 Evidence as Plaintiff's Exhibit 141.)</p> <p>12 BY MR. PRYOR:</p> <p>13 Q. Okay. This is an email. The first one is from</p> <p>14 Brian Talburt to Sonya Lacore.</p> <p>15 And we know who they are, right?</p> <p>16 A. Yes.</p> <p>17 Q. And he says, "So my final installment on this</p> <p>18 subject."</p> <p>19 Did you see any of the other installments?</p> <p>20 A. No, not to my recollection.</p> <p>21 Q. Okay. And then it says -- I'm going to read</p> <p>22 parts of it. You are welcome to read any parts of</p> <p>23 it you want.</p> <p>24 "The issue becomes the tumor. While I hate to</p> <p>25 give him credit for anything, Casper really was the</p>
<p style="text-align: right;">Page 407</p> <p>1 first legitimate cancer or tumor -- cancerous tumor</p> <p>2 that had any significant reach with 1,000 members.</p> <p>3 But in a relatively insightful way, he could be</p> <p>4 contained."</p> <p>5 And Casper, again, is talking about Mike</p> <p>6 Casper?</p> <p>7 A. Yes, I assume so.</p> <p>8 Q. And he's referring to him as a "cancerous</p> <p>9 tumor." Yes?</p> <p>10 A. No. I read that he's referring to issues</p> <p>11 becoming the tumor.</p> <p>12 Q. He was really the first legitimate cancerous</p> <p>13 tumor.</p> <p>14 So do you know what nouns and pronouns and</p> <p>15 adjectives are?</p> <p>16 A. I do. I was looking at the sentence above.</p> <p>17 Q. And so you are saying that what they are</p> <p>18 referring to is what he's doing is, as opposed to,</p> <p>19 "The first legitimate cancerous tumor"?</p> <p>20 That doesn't refer to Mike Casper?</p> <p>21 A. I see that now. I was reading the sentence</p> <p>22 right above it --</p> <p>23 Q. Okay.</p> <p>24 A. -- where it said, "The issue becomes the</p> <p>25 tumor."</p>	<p style="text-align: right;">Page 408</p> <p>1 Q. Oh, no, I'm not disagreeing about that one.</p> <p>2 A. Okay.</p> <p>3 Q. Okay. So we agree that, "The first cancerous</p> <p>4 tumor" is, according to this email, Mike Casper?</p> <p>5 A. When I read the whole sentence, I think he was</p> <p>6 talking about the forum that was set up by Casper.</p> <p>7 Q. Okay. All right. That is the way you read it</p> <p>8 at the time, too, right?</p> <p>9 A. Yes.</p> <p>10 Q. And then it says, "He could be contained."</p> <p>11 Do you know what that is referring to?</p> <p>12 A. No.</p> <p>13 Q. Then it says -- skipping a sentence -- it says,</p> <p>14 "Corliss, particularly, is something we have not</p> <p>15 seen before and is incredibly dangerous. The</p> <p>16 attitude she spans is NW Airlines in the 19 -- in</p> <p>17 the '80s. People listen, and people react" -- I'm</p> <p>18 going to read keeping, and then I'll ask you</p> <p>19 questions -- "I am all about targeted</p> <p>20 assassinations. I'm sure with her dreadful work</p> <p>21 history, there could be opportunities. She will</p> <p>22 play very well to the heavy, inner-city minority</p> <p>23 crowd coming on board soon. She will be the voice.</p> <p>24 She will be a huge threat in our upcoming election</p> <p>25 as well. She plays very well to her crowd."</p>

<p style="text-align: right;">Page 409</p> <p>1 Did you disavow any of those statements at any 2 time? 3 A. I spoke to Brian and I told him he needed to 4 stop having conversations and sending stuff in 5 emails, that people in Southwest management were in 6 a leadership position, they were not his friends, 7 they were not his buddies, even if he thought that 8 because of his tenure as an employee. 9 Q. Ma'am, that is pretty convenient when you are 10 sitting here in front of a jury. 11 This was sent as an email to you in writing, in 12 a communication. 13 Did you ever -- can you point to one piece of 14 email from you, anything in writing, disavowing the 15 actions of your supporter, who is sending this to 16 you, feels very comfortable sending this to you, 17 talking about trying to eliminate a potential 18 candidate against your leadership? 19 A. He sent this to me as indication of the 20 conversations using phrases like "targeted 21 assassination" that he had had with members of 22 management. That was why he sent that to me, as 23 documentation. 24 He sent me a lot of things during this time. 25 And most of them, I did not respond to.</p>	<p style="text-align: right;">Page 410</p> <p>1 We had a conversation about a slew of the 2 emails that he sent. But, no, I -- there is no -- 3 not anything in writing. 4 Q. I was waiting for all of that information you 5 just gave us for the answer, and you finally 6 answered it at the end. 7 Nothing, right? 8 A. No. Not besides what has been presented. 9 Q. What do you mean "besides"? 10 There is nothing from you here disavowing this. 11 A. I'm sorry. In other documents that were sent, 12 I think around the same day, there were just 13 comments that I had replied to. Not disavowing. 14 Q. Who is Corliss? 15 A. She is a flight attendant for Southwest. 16 Q. Is she African-American? 17 A. Yes. 18 Q. And it is very clear that Ms. Lacore and 19 Mr. Talburt -- and you, by being included on this 20 email -- are being informed that "she's a danger to 21 your leadership and now is the time for a targeted 22 assassination, maybe we can use her dreadful work 23 history to get rid of her." 24 Isn't that what is being said? 25 A. That is not how I -- I didn't participate in</p>
<p style="text-align: right;">Page 411</p> <p>1 that conversation and that was not what I took from 2 this. 3 Q. Oh, okay. 4 Well, let's read it again together so we can 5 see how you took it. 6 "Corliss particularly is something we have not 7 seen before and is incredibly dangerous." 8 So he must be talking about -- did she carry 9 guns? Did she know judo? What -- how did you take 10 that? 11 A. That it was Brian just spewing off at the mouth 12 about flight attendants that he didn't support and 13 he didn't want to see in a leadership position. 14 Q. Ma'am, does it cause you any concern that your 15 supporter feels very comfortable sending something 16 to you, knowing there will be no repercussions, when 17 he's talking about taking adverse action against 18 someone because of their race, not just because they 19 are a union member? 20 That doesn't bother you? 21 A. I don't agree with what you said, and I don't 22 think her race had anything to do with how Brian 23 felt about her. 24 Q. You don't think this is about race? 25 A. No, sir.</p>	<p style="text-align: right;">Page 412</p> <p>1 Q. So when he said, "She's incredibly dangerous, 2 she's going to play very well with the heavy 3 inner-city minority crowd," he's not talking about 4 her race? 5 He's talking about what? She's packing a gun? 6 That is not how you, as union president, read 7 this? 8 A. No. 9 Q. I just want to be sure, very clear. 10 You think there is nothing -- 11 MR. GREENFIELD: Objection, your Honor. 12 This is the third time. He's asking the same 13 question. 14 THE COURT: I will sustain that. 15 MR. PRYOR: I didn't hear that. 16 THE COURT: I will sustain that. It is 17 duplicative, cumulative, repetitive. 18 MR. PRYOR: Asked and answered, is that 19 the -- was that the objection? 20 THE COURT: Yes. That's another way to 21 say it. 22 MR. PRYOR: I'm trying to hear. 23 BY MR. PRYOR: 24 Q. And then, Mr. Talburt sends you an email. And 25 he's talking about the close relationship he's dealt</p>

<p style="text-align: right;">Page 413</p> <p>1 with Sonya Lacore. 2 Do you see that? 3 A. Yes. 4 Q. And you represented Brian, or you helped the 5 grievance committee with him. 6 You know for a fact that no one at Southwest 7 Airlines senior management reported Mr. Lacore for 8 any company violation for making these kind of 9 statements to senior management? 10 A. Did you say Mr. Lacore? 11 Q. What was your question? 12 A. Did you say Mr. Lacore? 13 Q. I can't hear what you are saying. 14 A. Did you say Mr. Lacore? 15 Q. I should have said Ms. Lacore. 16 But other than that -- 17 A. Can you repeat your question? 18 Q. Yes. 19 You know for a fact that Ms. Lacore did not 20 report Mr. Talburt for any company violation for 21 threatening someone both because they were a union 22 member that might threaten your leadership, or 23 because she's African-American and there was no 24 report? 25 MR. GREENFIELD: Objection. Relevance.</p>	<p style="text-align: right;">Page 414</p> <p>1 MR. McKEEBY: Well -- 2 THE COURT: I will sustain that. 3 MR. PRYOR: May we approach? 4 THE COURT: You may. 5 (Thereupon, the following proceedings were 6 had at sidebar:) 7 MR. PRYOR: It doesn't matter that 8 Ms. Lacore didn't report it? 9 THE COURT: Well, Lacore is Southwest, not 10 Union. 11 MR. McKEEBY: She is, yes. It doesn't 12 matter that she didn't report it. She's not a 13 decision maker. This is a motion in limine. 14 THE COURT: It's not a fair representation 15 claim as to Lacore. 16 MR. McKEEBY: Exactly. 17 THE COURT: Lacore is not a leader. 18 MR. PRYOR: But we have claims against 19 Southwest Airlines that this relates to. 20 MR. McKEEBY: No. Because Ms. Lacore had 21 nothing to with the termination decision of 22 Ms. Carter, and that is the whole basis of our 23 motion in limine. They are just trying to slime 24 Ms. Lacore by making her look bad for not reporting 25 this supposed --</p>
<p style="text-align: right;">Page 415</p> <p>1 THE COURT: I will sustain it. 2 MR. PRYOR: Let --- can I just respond? 3 Because that is just not accurate on the facts. 4 On February 22nd, 2017, when she 5 reported -- when this -- when Ms. Stone reported 6 Ms. Carter, she included on her report, her 7 complaint, even though you are not supposed to -- 8 she was supposed to have been just the base 9 manager -- she sent it to Sonya Lacore. 10 We absolutely believe Sonya Lacore is 11 involved. And Mike Sims testified he brought the 12 termination letter in to Sonya Lacore. You can't 13 act like Sonya Lacore wasn't involved in this. 14 MR. McKEEBY: Sure I can. She wasn't. 15 I mean, you have seen the summary judgment 16 proof. She was not a decision maker. She was 17 copied -- Ms. Stone decided to copy her on a 18 complaint. But she was not involved, and therefore, 19 she's not relevant, and it shouldn't come in. It's 20 just -- 21 MR. PRYOR: Yes. 22 THE COURT: I haven't heard anything that 23 makes me change my mind. Let's continue. 24 (Thereupon, the sidebar was concluded and 25 the following proceedings were held in open</p>	<p style="text-align: right;">Page 416</p> <p>1 court:) 2 BY MR. PRYOR: 3 Q. Did you report Brian Talburt to Southwest 4 Airlines for violations of Southwest's policy as a 5 result of receiving this email, saying that he's 6 wanting to target people for assassination -- and 7 clearly he means talking about getting them fired, 8 I'm not saying he's trying to kill them -- because 9 they are a threat to your leadership and because 10 she's African-American? Did you report any of that 11 to Southwest Airlines? 12 A. No. 13 Q. Why not? You supported it. You didn't report 14 it because you supported it? 15 A. I didn't support it. 16 Q. Absolutely, ma'am. You got emails on this, you 17 didn't respond and say, No, no, we can't do stuff 18 like that. I have shown you half a dozen. Not one 19 word from you other than support and offering queso 20 dip. That is it. 21 MR. GREENFIELD: Objection, your Honor. 22 Counsel is just testifying. 23 THE COURT: Sustained. 24 BY MR. PRYOR: 25 Q. Not one thing did you do, right? Not one</p>

<p style="text-align: right;">Page 417</p> <p>1 thing?</p> <p>2 MR. GREENFIELD: Objection, your Honor,</p> <p>3 that is a compound question.</p> <p>4 THE COURT: I think it is sufficiently</p> <p>5 clear. He's asked the question. You can answer, if</p> <p>6 you have knowledge.</p> <p>7 THE WITNESS: I already said that I, at</p> <p>8 some point, spoke to Brian and told him to stop</p> <p>9 sending me stuff.</p> <p>10 BY MR. PRYOR:</p> <p>11 Q. Ma'am, what you told us was, without the</p> <p>12 benefit of anything in writing, that you told him,</p> <p>13 Don't be writing this stuff down, and then there is</p> <p>14 more and then there is more.</p> <p>15 And then there is some from Brett Nevarez and</p> <p>16 Cuyler Thompson. You named them. Your whole team</p> <p>17 is doing this and you never do a thing. You say,</p> <p>18 I'm always telling them don't put that in writing or</p> <p>19 that's not right, and yet they keep doing it.</p> <p>20 MR. GREENFIELD: Objection, your Honor.</p> <p>21 He continues to testify. He's misrepresenting the</p> <p>22 evidence. If he has a question, he should just ask.</p> <p>23 MR. PRYOR: It is a combination of her</p> <p>24 evidence and I'm letting her comment on.</p> <p>25 THE COURT: I will allow this one. You</p>	<p style="text-align: right;">Page 418</p> <p>1 can answer.</p> <p>2 THE WITNESS: I don't --</p> <p>3 BY MR. PRYOR:</p> <p>4 Q. What was your answer?</p> <p>5 A. I don't have control over other people's</p> <p>6 actions and what they choose to email me or send me</p> <p>7 or forward me.</p> <p>8 Q. So all of this was done over your strenuous</p> <p>9 objection that you have no record of, and they kept</p> <p>10 doing it, kept -- by the way, kept including you on</p> <p>11 the emails that you are saying, I told them not to</p> <p>12 do and that it was wrong, and yet they keep sending</p> <p>13 it to you. And you don't have any negative response</p> <p>14 to them. That is what happened, right?</p> <p>15 A. That is based off of what you -- what is</p> <p>16 displayed here. There are a lot of people that I</p> <p>17 wish I could have had them stop emailing me when I</p> <p>18 was in that position and it wasn't an option.</p> <p>19 Q. We are not talking about any people. We are</p> <p>20 talking about your leadership team.</p> <p>21 The team that you ran on a ticket with. The</p> <p>22 team that is on your executive board meeting. The</p> <p>23 ones you deal with all of the time.</p> <p>24 Your inside core, Facebook, secret group.</p> <p>25 MR. GREENFIELD: Objection, your Honor,</p>
<p style="text-align: right;">Page 419</p> <p>1 also mischaracterizing testimony. The testimony is</p> <p>2 actually clear that --</p> <p>3 THE COURT: Sustained.</p> <p>4 MR. GREENFIELD: -- Mr. Talburt is not.</p> <p>5 THE COURT: Sustained. Rephrase.</p> <p>6 BY MR. PRYOR:</p> <p>7 Q. You didn't do anything, did you? You don't</p> <p>8 want to answer?</p> <p>9 A. I'm sorry. I thought I have answered that.</p> <p>10 Q. Let's look at exhibit -- did you think all of</p> <p>11 these emails that were sent to personal addresses</p> <p>12 would end up in court some day?</p> <p>13 That wasn't the point -- that kind of defeats</p> <p>14 the point of sending it to the personal emails,</p> <p>15 right?</p> <p>16 MR. GREENFIELD: Objection, your Honor,</p> <p>17 calls for speculation. There hasn't been a single</p> <p>18 email from Ms. Stone from a personal --</p> <p>19 MR. PRYOR: Your Honor, speaking</p> <p>20 objections --</p> <p>21 THE COURT: If you get two or three words</p> <p>22 in, then you are speaking and need a sidebar. I</p> <p>23 will sustain that objection.</p> <p>24 BY MR. PRYOR:</p> <p>25 Q. She's speculating -- you have to speculate</p>	<p style="text-align: right;">Page 420</p> <p>1 about your own opinion as to why these were sent to</p> <p>2 personal email addresses, ma'am.</p> <p>3 THE COURT: Counsel, I didn't sustain it</p> <p>4 on that basis. You haven't put the email into the</p> <p>5 record yet.</p> <p>6 MR. PRYOR: I'm sorry, Your Honor?</p> <p>7 THE COURT: You haven't put the email into</p> <p>8 the record yet. That was the basis I was thinking</p> <p>9 of when I sustained the objection. You might want</p> <p>10 to move for its admission first.</p> <p>11 BY MR. PRYOR</p> <p>12 Q. Okay. Well, the one we were just talking about</p> <p>13 was sent to personal email addresses, Rocky</p> <p>14 Mountain, Sonya Lacore's personal email address.</p> <p>15 Did you see that? Do you see where it says</p> <p>16 sonyalacore@gmail?</p> <p>17 A. Yes.</p> <p>18 Q. That is her personal email address, right?</p> <p>19 A. Yes. I would assume so.</p> <p>20 Q. And before, Rocky Mountain. That is the</p> <p>21 personal email address of Mr. Hafner, right?</p> <p>22 A. I don't know if that is the personal email</p> <p>23 address of Mr. Hafner. I've already stated I'm not</p> <p>24 sure whose personal email address that is.</p> <p>25 MR. PRYOR: Let's look at Exhibit 29.</p>

<p style="text-align: right;">Page 421</p> <p>1 MR. GREENFIELD: Your Honor, may we have a 2 sidebar on 29? 3 THE COURT: On 29? Sure. 4 (Thereupon, the following proceedings were 5 had at sidebar:) 6 MR. GREENFIELD: 29 is literally just 7 Facebook posts. They are not tied to a company 8 email or anything like that. It is the definition 9 of hearsay. 10 THE COURT: Response. 11 MR. PRYOR: She's on it. She knows 12 exactly what it is. She can identify it. I have no 13 problem getting it in through her. 14 MR. GREENFIELD: It does not make it an 15 out-of-court statement that you are offering for the 16 truth of the matter asserted. And there is 17 several -- there is numerous -- 18 THE COURT: I think the response needs to 19 ask her what it was, so I was inclined to overrule 20 the hearsay objection based on the facts. 21 MR. GREENFIELD: Okay. 22 MR. PRYOR: This is a post that is on her 23 core team group that she's testified about, and she 24 was on it, received it, and can identify it. 25 THE COURT: And that is why I'm inclined</p>	<p style="text-align: right;">Page 422</p> <p>1 to overrule the objection. 2 MR. GREENFIELD: And I don't want to have 3 to object again to this situation, but he keeps 4 referring to these as "her core team," things like 5 that. That is just not the case. He keeps trying 6 to identify a personal nature to these things that 7 are not owned by her. 8 MR. PRYOR: That is absolutely wrong. 9 She's answered the question. She knows what her 10 core team is. 11 MR. GREENFIELD: And that is not what she 12 said. 13 MR. PRYOR: Well, she's answered the 14 question. 15 MR. GREENFIELD: Not like that, though. 16 THE COURT: I think you can address that 17 on cross to the extent you think there is an 18 exploitation there. 19 MR. GREENFIELD: Sure. 20 (Thereupon, the sidebar was concluded and 21 the following proceedings were held in open 22 court:) 23 THE COURT: All right. I have overruled 24 the objection to No. 29. It is in evidence and we 25 can publish to the jury.</p>
<p style="text-align: right;">Page 423</p> <p>1 THE COURT: 29 is admitted. 2 (Thereupon, the document was admitted in 3 Evidence as Plaintiff's Exhibit 29.) 4 BY MR. PRYOR: 5 Q. In Exhibit No. 29, this -- these are some 6 posts -- let me show you the next two pages as 7 well -- some posts from your core team talking about 8 Mr. Glick. 9 It is not that page, it is the one before. 10 Let me try it this way: Do you recognize this 11 as being part of the secret Facebook page for your 12 core team? 13 A. I think so. 14 Q. Okay. And Mr. Nevarez and Mr. Talburt are 15 talking about, Click is getting agitated. I think 16 he may private message his way into big troubles for 17 himself. 18 And then Brian Talburt says, "We can only 19 hope." 20 And Mr. Click was someone that was -- had run 21 for office. And was he the one that was elected and 22 got kicked out and you were put in, or is that 23 someone else? 24 A. He was one of the officers that was removed, 25 yes.</p>	<p style="text-align: right;">Page 424</p> <p>1 Q. Okay. So someone who was an officer, but got 2 kicked out, and you got put in. Your team is 3 looking for a way to get him in trouble using 4 private messages, right? 5 A. I don't think they are looking to get him in 6 trouble. I think they are just wanting to be aware 7 of anything that he's sending that was harassment. 8 Q. Okay. Is that really -- it says, Thanks for 9 the screen shot. And then it says -- Brett Nevarez 10 says, "Anybody else get private messages from Click, 11 please screen shot and save for posterity. I think 12 he may private message his way into big troubles for 13 himself." 14 That is not your team plotting against yet 15 another union member to use social media to get them 16 in trouble? That is not what your team is doing on 17 your core team secret website? 18 A. I don't think they were plotting to get someone 19 in trouble, no. 20 Q. So you think they were doing good things, they 21 thought they were going to save it for prosperity, 22 they could send it to his wife, and they could put 23 it on a picture frame? Is that what they were 24 talking about? 25 A. That is not what I said.</p>

<p style="text-align: right;">Page 425</p> <p>1 Q. Well, you said you didn't think they were 2 plotting against him. I'm just trying to think, 3 what is -- if that is not plotting against him, what 4 is? 5 Can I have an answer? 6 A. Chris was very, very outspoken and there were 7 legal issues that he was involved in against the 8 union, active cases at that time. So anything 9 related to that, we -- 10 Q. We what? We wanted to keep a record of, right? 11 A. I can't talk about anything that was 12 attorney-client privilege. 13 Q. Go ahead. 14 A. I don't have anything else to say, other than 15 Mr. Click had a lawsuit against the union at the 16 time of this post. 17 Q. Okay. Let me summarize what you have told us. 18 First you said, "No, they weren't doing this to get 19 him in trouble. They were just thinking he might 20 get himself in trouble." 21 Then when I read, well, wait a minute, what 22 about this, save for posterity, we can only hope, 23 then you decided, well, there are these legal 24 problems with Mr. Click, and so actually we were 25 gathering this information. Do you see how those</p>	<p style="text-align: right;">Page 426</p> <p>1 two things are different? 2 A. There were so many lawsuits that involved 3 Mr. Click, and I'm trying to get the time frames 4 straight in my mind between -- a short time frame 5 that he was involved in. 6 And --- there was still active lawsuits and I 7 didn't remember that when we first looked at this. 8 Q. Do you see the two different answers you have 9 given under oath to the same question? 10 A. I didn't give two different answers, I'm trying 11 to further explain based on remembering and looking 12 at the time frame. 13 Q. So you are explaining your memory, and your 14 memory was they weren't gathering information, and 15 then your memory became they are gathering 16 information? 17 A. No. I said I did not believe they were 18 gathering information to target them. 19 Q. Oh, let's go back to -- they were gathering 20 information to help him. There seems only to be a 21 couple of choices unless they just wanted souvenirs. 22 A. I have already stated that is not what I 23 thought. 24 Q. Which was it? Tell us what you thought. You 25 thought they were gathering the information to help</p>
<p style="text-align: right;">Page 427</p> <p>1 him or hurt him? How about that? 2 A. Neither. 3 Q. So they were gathering information, then, for 4 no reason at all? 5 A. No. 6 Q. By the way, the fact that Mr. Click had 7 lawsuits against his union, he had objections to 8 things you guys were doing, too. That doesn't allow 9 the union to target him, does it? 10 A. No. 11 Q. But you did? 12 A. No. 13 Q. By the way, your core secret team became public 14 at some point, didn't it? 15 A. Screen shots from it were made public, yes. 16 Q. Okay. So somebody took screen shots and it 17 became public what you guys were trying to do in 18 secret, correct? 19 A. Screen shots of the conversations happening in 20 the group were made public. 21 Q. Conversations you wanted to keep secret became 22 public? 23 A. Yes. 24 Q. And your team members, including yourself, on 25 these communications, referred to anybody that was</p>	<p style="text-align: right;">Page 428</p> <p>1 opposed to your union leadership as "haters," 2 correct? 3 A. That was a term people used. I don't see 4 anything in front of me with that. 5 Q. No, I'm not -- if you want them, we can -- we 6 can gather as many as you would like, ma'am. You 7 issued a public apology for it, didn't you? 8 A. I issued a public apology for anybody that was 9 hurt by anything that came out in those screen 10 shots. 11 Q. Well, let's see how well you recall. 12 Your core team members on communications on 13 your secret website that you were involved in, 14 strings of conversations that you were on, referred 15 to union people that were opposed to your leadership 16 as "haters," true? 17 A. Yes. 18 Q. It referred to your opponents as "fucktards," 19 correct? 20 A. No. 21 Q. Are you sure? 22 A. My recollection of that phrase being used was 23 not about an opponent. 24 Q. It was never used -- as a matter of fact, 25 Mr. Talburt bragged about it on your core team</p>

<p style="text-align: right;">Page 429</p> <p>1 website when he said he converted someone, that his 2 fucktard strategy must have worked. You don't 3 recall that? 4 A. I did not say that the word "fuckard" wasn't 5 used. I corrected the way you said it was used. 6 Q. Oh, what was the better use of "fucktard"? 7 A. You said it was about opposition and the 8 election. And he called another flight attendant a 9 "fucktard," based on my recollection. 10 Q. And your recollection isn't that he called the 11 opponents in general "fucktards" or that Mr. Nevarez 12 did? 13 A. No. 14 Q. And what about referring to your opponents as 15 "spewing bullshit"? 16 A. I don't recall if that was said -- 17 Q. That's not the kind of thing you recall because 18 there was so much "spewing bullshit" that you 19 wouldn't remember? That would stick out in my mind 20 unless it was common place that all kinds of things 21 were being said like that. 22 MR. McKEEBY: Objection, asked and 23 answered. 24 THE COURT: Sustained. 25</p>	<p style="text-align: right;">Page 430</p> <p>1 BY MR. PRYOR: 2 Q. Did you, at any time, with any of your core 3 team members, on your secret Facebook 4 communications, ever reprimand anyone for the 5 language that they used and the characterizations 6 that they made and the actions they proposed? 7 A. Not to my recollection. 8 Q. And your administration negotiated a Collective 9 Bargaining Agreement? 10 A. There was a negotiating team that negotiated a 11 Collective Bargaining Agreement under my 12 administration. 13 Q. There was a what? 14 A. There was a negotiating team that negotiated a 15 Collective Bargaining Agreement under my 16 administration. 17 Q. Okay. Under your administration, this 18 negotiating team, who was the head of the 19 negotiating team? 20 A. I was. 21 Q. And did you propose a Collective Bargaining 22 Agreement to your members? 23 A. The executive board sent a Collective 24 Bargaining Agreement out to our members. 25 Q. And was it accepted or rejected by your</p>
<p style="text-align: right;">Page 431</p> <p>1 membership? 2 A. The first one was rejected. 3 Q. Was it a close vote? 4 A. No. 5 Q. And, in fact, your members rejected it by 6 87 percent, correct? 7 A. Yes. 8 Q. And there was the feeling that your membership 9 was too close with management of Southwest Airlines, 10 in order to protect your team, as opposed to a good 11 Collective Bargaining Agreement? 12 Do you want me to rephrase it? 13 A. I didn't -- I didn't understand the question. 14 Q. Okay. I'll try it again. 15 The thinking was, that your team was too 16 concerned about people like Ms. Corless or 17 Mr. Casper, people that were opposed to your 18 leadership, and that you were more interested in 19 working with management at Southwest Airlines to 20 defeat your opponents than to negotiate a good 21 Collective Bargaining Agreement? 22 A. No. 23 MR. GREENFIELD: Objection, your Honor, 24 calls for speculation. He's asking about the 25 thinking.</p>	<p style="text-align: right;">Page 432</p> <p>1 THE COURT: I will sustain that. 2 BY MR. PRYOR: 3 Q. And as a result, there was a recall petition? 4 A. As a result of the failed tentative agreement, 5 yes. 6 Q. I'm sorry? 7 A. As a result of the failed tentative agreement, 8 yes. 9 Q. Okay. So a bunch of flight attendants wanted 10 to recall you. I guess they didn't have a reason? 11 It wasn't because you were too cozy with management? 12 A. There was a reason -- 13 MR. GREENFIELD: Objection, your Honor, 14 same, speculation. 15 THE COURT: Sustained. 16 BY MR. PRYOR: 17 Q. Let me rephrase. 18 There was a recall petition after your failed 19 Collective Bargaining Agreement, correct? 20 A. Yes. 21 MR. PRYOR: Let's look at Exhibit 30. 22 I move for the admission of Exhibit 30. 23 I'm sorry. 24 THE COURT: Okay, 30. Objection -- same 25 objections as this morning? From Union, none from</p>

<p style="text-align: right;">Page 433</p> <p>1 Southwest?</p> <p>2 MS. GREEN: Give me one moment, your</p> <p>3 Honor.</p> <p>4 Yes, your Honor.</p> <p>5 THE COURT: All right. I will overrule</p> <p>6 those and allow you to publish Exhibit No. 30.</p> <p>7 (The referred-to document was admitted in</p> <p>8 Evidence as Plaintiff's Exhibit 30.)</p> <p>9 BY MR. PRYOR:</p> <p>10 Q. Okay. And this is a form of the recall</p> <p>11 petition, ma'am, Exhibit 30?</p> <p>12 A. Yes. It appears to be.</p> <p>13 Q. And the people that they want to recall are</p> <p>14 Audrey Stone, president; first vice president, Todd</p> <p>15 Gage; second vice president, Brett Nevarez;</p> <p>16 recording secretary, Kyler Thompson; financial</p> <p>17 secretary, John Perri; and it looks like member at</p> <p>18 large, Sam Wilkins; member at large, Crystal Riven;</p> <p>19 and DEBM, Andrea Gannet.</p> <p>20 And then the other names on there.</p> <p>21 Is that correct?</p> <p>22 A. Yes.</p> <p>23 Q. By the way, what is a DEBM?</p> <p>24 A. Domicile Executive Board Member.</p> <p>25 Q. And that is someone that is voted locally in</p>	<p style="text-align: right;">Page 434</p> <p>1 the Dallas area to represent the local and some</p> <p>2 board?</p> <p>3 A. Dallas would be one example. Every domicile</p> <p>4 has a DEBM representing them on the executive board.</p> <p>5 Q. Was Crystal for the Dallas area?</p> <p>6 A. No.</p> <p>7 Q. Who was Dallas, do you recall?</p> <p>8 A. B.R. Ricks.</p> <p>9 Q. Who?</p> <p>10 A. B.R. Ricks.</p> <p>11 Q. Did you ever remove a DEBM from the Dallas</p> <p>12 area?</p> <p>13 A. The executive board did.</p> <p>14 Q. And were you on the executive board?</p> <p>15 A. I was. But as the chair of the meeting, I did</p> <p>16 not vote unless there was a tie.</p> <p>17 Q. And this elected Dallas DEBM was removed and</p> <p>18 someone else was put in, correct?</p> <p>19 A. Correct.</p> <p>20 Q. Was that DEBM ever reinstated?</p> <p>21 A. Yes.</p> <p>22 Q. And so, in fact, what the board did was, they</p> <p>23 took an elected official, someone else that is in</p> <p>24 Charlene's area, and kick them out, because they</p> <p>25 don't like them, said, came up with an excuse, and</p>
<p style="text-align: right;">Page 435</p> <p>1 that excuse turned out to be false and they were put</p> <p>2 back, is that what happened?</p> <p>3 A. That is not correct.</p> <p>4 Q. It wasn't an excuse?</p> <p>5 A. No.</p> <p>6 Q. Did their reason turn out to be rejected?</p> <p>7 A. No. The reason that he was reinstated was the</p> <p>8 process by which it was done.</p> <p>9 MR. PRYOR: Let's look at Exhibit 22-0.</p> <p>10 MR. HILL: Repeat that, please, Bobby.</p> <p>11 MR. PRYOR: I'm sorry?</p> <p>12 MR. HILL: Repeat that, please.</p> <p>13 MR. PRYOR: 22-O. And, Your Honor, she's</p> <p>14 not on this document. And I'm going to ask if she's</p> <p>15 familiar with it. I can cover.</p> <p>16 THE COURT: We will keep the jury screens</p> <p>17 muted. What document are you talking about?</p> <p>18 MR. PRYOR: 22-O.</p> <p>19 THE COURT: Document 22, page O?</p> <p>20 MR. PRYOR: 22-O, as in the letter "O."</p> <p>21 We have A through X, I think, on 22. And</p> <p>22 this is 22-O. And, actually, don't publish it yet.</p> <p>23 MR. GREENFIELD: Do you have the page</p> <p>24 numbers for 22? Or is this in addition?</p> <p>25 MR. PRYOR: 7470.</p>	<p style="text-align: right;">Page 436</p> <p>1 MR. GREENFIELD: 7470.</p> <p>2 BY MR. PRYOR</p> <p>3 Q. I'm just going to ask you if you are familiar</p> <p>4 with this</p> <p>5 MR. McKEEBY: Your Honor, we needed a</p> <p>6 limiting instruction on this document.</p> <p>7 MR. GREENFIELD: Is this before the jury</p> <p>8 right now?</p> <p>9 THE COURT: It is not.</p> <p>10 BY MR. PRYOR:</p> <p>11 Q. Ma'am, are you familiar with trial Exhibit 22-0</p> <p>12 or the facts that are discussed in there?</p> <p>13 A. I am not familiar with this document at all,</p> <p>14 no.</p> <p>15 Q. Let me -- I won't offer it as an exhibit at</p> <p>16 this time.</p> <p>17 But did you have conversations with Naomi</p> <p>18 Hudson informing her about the recall petition?</p> <p>19 A. Yes.</p> <p>20 Q. And why were you having discussions with</p> <p>21 Southwest Airlines about the recall petition?</p> <p>22 A. Naomi Hudson was the lead negotiator for</p> <p>23 Southwest at that time. We were having regular</p> <p>24 discussions. The tentative agreement had just</p> <p>25 failed, and it was part of a conversation regarding</p>

<p style="text-align: right;">Page 437</p> <p>1 us regrouping, the negotiating team, and everything</p> <p>2 that was going on following that rejected tentative</p> <p>3 agreement, of which she had been the lead for on the</p> <p>4 Southwest side.</p> <p>5 BY MR. PRYOR:</p> <p>6 Q. You weren't seeking her assistance in keeping</p> <p>7 your team intact, were you?</p> <p>8 A. No.</p> <p>9 Q. And did you tell her you would continue to keep</p> <p>10 her informed of the inner workings of your union?</p> <p>11 A. No. Not -- it wasn't about the inner workings,</p> <p>12 it was about the kind of reset that both teams were</p> <p>13 doing following the rejected tentative agreement.</p> <p>14 Q. Did you represent Brett Nevarez in a mandatory</p> <p>15 meeting?</p> <p>16 A. Yes.</p> <p>17 Q. What was he charged with?</p> <p>18 A. He wasn't charged with anything.</p> <p>19 Q. What was he called in to the mandatory meeting</p> <p>20 for?</p> <p>21 A. He was called in to have a discussion about a</p> <p>22 post he had made on social media.</p> <p>23 Q. And what were the posts?</p> <p>24 A. He was answering questions and speaking about</p> <p>25 one of the lawsuits that the union was engaged in</p>	<p style="text-align: right;">Page 438</p> <p>1 with the former officers that were removed.</p> <p>2 Q. And you defended him and said he was engaged in</p> <p>3 union activity, correct?</p> <p>4 A. I didn't even defend him. I was there as his</p> <p>5 representative. They had told him advance no</p> <p>6 discipline would be issued and it was just to have a</p> <p>7 conversation.</p> <p>8 Q. In that conversation you said he was engaged in</p> <p>9 protected union activity?</p> <p>10 A. No. We stated that what he had posted was</p> <p>11 public fact because the lawsuits were public in</p> <p>12 nature. And Southwest Airlines agreed that there</p> <p>13 was nothing in violation of any of the work rules,</p> <p>14 but cautioned him to be careful to not say anything</p> <p>15 that could be construed in violation or something</p> <p>16 that wasn't public information.</p> <p>17 Q. And you never said he was engaged in protected</p> <p>18 union activity, correct?</p> <p>19 A. I don't recall if I used those specific</p> <p>20 phrases.</p> <p>21 Q. Well, I'm not asking for a direct quote.</p> <p>22 But did you or did you not tell Southwest</p> <p>23 Airlines he was engaged in union activity and they</p> <p>24 shouldn't be involved in that?</p> <p>25 A. I don't -- I don't remember using those words.</p>
<p style="text-align: right;">Page 439</p> <p>1 Especially because we knew in advance that there was</p> <p>2 not going to be any discipline issued and it was</p> <p>3 just a conversation.</p> <p>4 Q. A conversation or not, you told them during</p> <p>5 that meeting what he was doing was protected union</p> <p>6 activity.</p> <p>7 MR. GREENFIELD: Objection, your Honor,</p> <p>8 asked and answered, and he's testifying.</p> <p>9 THE COURT: Sustained.</p> <p>10 BY MR. PRYOR:</p> <p>11 Q. So what about Mr. Talburt, did you represent</p> <p>12 him in a hearing?</p> <p>13 A. I assisted in his representation in a hearing.</p> <p>14 Q. I'm sorry?</p> <p>15 A. I assisted in his representation in a hearing.</p> <p>16 Q. And when you assisted Mr. Talburt, did you say</p> <p>17 he was engaged in protected union activity?</p> <p>18 A. I don't remember if I used those exact words.</p> <p>19 Q. Okay. When we talked about not being</p> <p>20 evasive -- I'm not trying to quote you, I wasn't</p> <p>21 there. But the import of one of the things you told</p> <p>22 them was Mr. Talburt was engaged in protected union</p> <p>23 activity?</p> <p>24 A. For Talburt, that theme was probably discussed</p> <p>25 in his meeting. I just --</p>	<p style="text-align: right;">Page 440</p> <p>1 Q. Given that you are now saying yes to that, why</p> <p>2 were you playing the game of, I don't recall those</p> <p>3 exact words? Is that an evasive answer?</p> <p>4 A. No, sir. I feel like you are trying to get me</p> <p>5 to say that I made that statement to Southwest</p> <p>6 numerous times. And I cannot go back and tell you</p> <p>7 what words I used in any of those meetings that took</p> <p>8 place years ago.</p> <p>9 Q. I absolutely don't deny that you said it all of</p> <p>10 the time. If that is what you think I'm trying to</p> <p>11 get you to not say.</p> <p>12 A. No, sir, that is not what I said.</p> <p>13 Q. And what had Mr. Talburt done that you were</p> <p>14 defending him for?</p> <p>15 A. Um, it was, as part of his appeal process, on a</p> <p>16 grievance following his termination for social</p> <p>17 media.</p> <p>18 Q. And what had he done on social media that got</p> <p>19 him terminated?</p> <p>20 A. He had called another flight attendant a</p> <p>21 "fucktard."</p> <p>22 Q. And he was reinstated?</p> <p>23 A. He was.</p> <p>24 MR. McKEEBY: Your Honor --</p> <p>25 Q. And what about Bill --</p>

<p style="text-align: right;">Page 441</p> <p>1 THE COURT: Hold on.</p> <p>2 MR. McKEEBY: Objection, relevance.</p> <p>3 THE COURT: Sidebar.</p> <p>4 (Thereupon, the following proceedings were</p> <p>5 had at sidebar:)</p> <p>6 MR. McKEEBY: Your Honor, he ran roughshod</p> <p>7 over your motion in limine ruling in opening</p> <p>8 statements and I stood there and took it. And here</p> <p>9 he is doing it again here.</p> <p>10 The discipline of other employees is not</p> <p>11 relevant and I shouldn't have to get witnesses up to</p> <p>12 testify about it. You have already ruled on that.</p> <p>13 And objection, relevance, prejudice.</p> <p>14 MR. PRYOR: I was not running roughshod</p> <p>15 over your motion in limine. I am absolutely within</p> <p>16 bounds. She was involved in these meetings. She</p> <p>17 took positions protecting her team members. I have</p> <p>18 shown she didn't take that those actions for others.</p> <p>19 It goes right into the theory of our case and it is</p> <p>20 relevant.</p> <p>21 MR. McKEEBY: That part is fine.</p> <p>22 MR. PRYOR: Where did I go over?</p> <p>23 MR. McKEEBY: You went over when you</p> <p>24 talked about what the ultimate disciplines --</p> <p>25 THE COURT: Exactly, exactly. That's</p>	<p style="text-align: right;">Page 442</p> <p>1 where you went over.</p> <p>2 MR. PRYOR: But she opened the door when</p> <p>3 she said he was terminated. And, in fact, he got</p> <p>4 reinstated. He doesn't have to sign a last-chance</p> <p>5 agreement -- not that I'm going to be able to say</p> <p>6 that yet. So I need to be able to respond to the</p> <p>7 answers she gave.</p> <p>8 MR. GREENFIELD: And, Your Honor, I have a</p> <p>9 404(b) objection. She's talking about past</p> <p>10 practices to fall in line with what she was doing</p> <p>11 with other people. She's talking about</p> <p>12 representation of one individual --</p> <p>13 No, they're --</p> <p>14 MR. GREENFIELD: -- every single</p> <p>15 individual at 15,000 --</p> <p>16 THE COURT: I think you can ask this</p> <p>17 question and no farther. I think as of now, she's</p> <p>18 only opened the door to terminated but then</p> <p>19 reinstated.</p> <p>20 MR. PRYOR: Fair enough.</p> <p>21 THE COURT: Got it?</p> <p>22 (Thereupon, the sidebar was concluded and</p> <p>23 the following proceedings were held in open</p> <p>24 court:)</p> <p>25 THE COURT: Okay. You can reask that</p>
<p style="text-align: right;">Page 443</p> <p>1 question we discussed.</p> <p>2 BY MR. PRYOR:</p> <p>3 Q. Mr. Talburt was reinstated, correct?</p> <p>4 A. Yes.</p> <p>5 Q. And he was represented in part by you, who, at</p> <p>6 the time, you were negotiating a union contract with</p> <p>7 Southwest Airlines, right?</p> <p>8 A. Yes.</p> <p>9 Q. And Bill Holcomb, someone else was on your</p> <p>10 team, was charged with social media policy, and he</p> <p>11 was someone that you took care of while you were</p> <p>12 negotiating the CBA agreement?</p> <p>13 A. I -- I never -- what do you mean "took care</p> <p>14 of"? I never represented Bill.</p> <p>15 Q. Well, by "took care of," he was charged with</p> <p>16 something pretty serious, typically at Southwest</p> <p>17 Airlines and passenger shaming, wasn't he?</p> <p>18 A. I don't recall what Bill's social media</p> <p>19 complaint was. I don't --</p> <p>20 Q. I didn't say social media. I said passenger</p> <p>21 shaming.</p> <p>22 A. I don't recall Bill having an issue with</p> <p>23 passenger shaming.</p> <p>24 Q. Okay. Maybe it is someone else. If I'm wrong,</p> <p>25 I apologize.</p>	<p style="text-align: right;">Page 444</p> <p>1 But did you or did you not meet with Naomi</p> <p>2 Hudson at a time when Bill Holcomb, on your</p> <p>3 negotiating team, was charged with violation of</p> <p>4 social media policy? And you asked Naomi Hudson to</p> <p>5 get rid of that charge and she refused. And you</p> <p>6 went to Mike Hafner and asked him to, and he did.</p> <p>7 A. No. That is not an accurate representation.</p> <p>8 Q. You didn't do that?</p> <p>9 A. No.</p> <p>10 Q. You didn't meet with Mike Hafner and say, "We</p> <p>11 need these social media policy violations to go</p> <p>12 away," and within 24 hours, they went away?</p> <p>13 A. That is not what you stated earlier.</p> <p>14 Q. Tell me, did you or did you not talk to</p> <p>15 Mr. Hafner about social media policy employees that</p> <p>16 were charged --</p> <p>17 A. I did.</p> <p>18 Q. -- and after you met with him, at a time when</p> <p>19 you are negotiating the CBA, within 24 hours, maybe</p> <p>20 48, those charges are gone?</p> <p>21 MR. GREENFIELD: Objection, your Honor,</p> <p>22 compound question.</p> <p>23 THE COURT: Sustained.</p> <p>24 MR. McKEEBY: My objection is to relevance</p> <p>25 based on what we just discussed. He's talking</p>

<p style="text-align: right;">Page 445</p> <p>1 about -- well.</p> <p>2 THE COURT: I will sustain that as well.</p> <p>3 BY MR. PRYOR:</p> <p>4 Q. Ma'am, did you have a conversation with</p> <p>5 Mr. Hafner about getting social media charges</p> <p>6 removed from some of your team members at a time you</p> <p>7 were negotiating the CBA?</p> <p>8 A. I had a meeting with Mike Hafner to discuss</p> <p>9 getting discipline removed for all of the flight</p> <p>10 attendants that currently had discipline on their</p> <p>11 record for a social media violation. One of whom</p> <p>12 was a team member of mine at the time. Some who had</p> <p>13 no involvement with union. Some that I didn't know.</p> <p>14 And some that were non-members of the union.</p> <p>15 Q. And one of them was Bill Holcomb?</p> <p>16 A. Yes.</p> <p>17 Q. And within 48 hours, that was resolved?</p> <p>18 MR. McKEEBY: Your Honor, same objection.</p> <p>19 THE COURT: Sustained. Counsel, please</p> <p>20 refrain.</p> <p>21 MR. PRYOR: I apologize, I'm not</p> <p>22 understanding. Can I approach?</p> <p>23 THE COURT: You bet.</p> <p>24 (Thereupon, the following proceedings were</p> <p>25 had at sidebar:)</p>	<p style="text-align: right;">Page 446</p> <p>1 MR. PRYOR: She gets the charges dismissed</p> <p>2 and I can't discuss that? If I can't, I understand.</p> <p>3 But that is not -- I'm missing the distinction. I'm</p> <p>4 not talking about a punishment they received. They</p> <p>5 got off completely.</p> <p>6 THE COURT: So I think this was</p> <p>7 Southwest's limine point one, which I granted. So</p> <p>8 Southwest handles this -- I mean, y'all redirected</p> <p>9 it to say, no, what we are really looking at is</p> <p>10 union fair representation, right? So what did she</p> <p>11 say to Southwest? Sure, that is fair game. What</p> <p>12 did Southwest do? Those are the questions you keep</p> <p>13 asking and those are the subject of limine point</p> <p>14 one.</p> <p>15 MR. PRYOR: Okay. Then, you are right. I</p> <p>16 did ask that question.</p> <p>17 I believe it is relevant -- and it doesn't</p> <p>18 matter if I believe it is relevant. If I thought</p> <p>19 you had ruled I couldn't do that, I won't do it.</p> <p>20 But she got her team members -- she</p> <p>21 treated them differently than other people. She</p> <p>22 went in and met with Hafner and got Holcomb and</p> <p>23 Talburt charges dismissed. That's what she -- now,</p> <p>24 she keeps saying --</p> <p>25 MR. McKEEBY: Everything is fine until the</p>
<p style="text-align: right;">Page 447</p> <p>1 charge is dismissed; correct?</p> <p>2 MR. GREENFIELD: Correct. She already</p> <p>3 testified --</p> <p>4 THE COURT: Yeah, until the outcome of</p> <p>5 the -- Southwest decided, right? You can ask what</p> <p>6 she did on their behalf. That is not the subject</p> <p>7 of -- what is the subject is, what is Southwest's</p> <p>8 ruling, then, because we don't have comparators.</p> <p>9 That's not what --</p> <p>10 MR. PRYOR: And so Southwest colluding</p> <p>11 with her in order to get a better Collective</p> <p>12 Bargaining Agreement doesn't show that she's not</p> <p>13 adequately representing my client?</p> <p>14 THE COURT: Well, you got plenty of things</p> <p>15 to talk about. It is just the last question that</p> <p>16 wasn't --</p> <p>17 MR. PRYOR: All right. I think I</p> <p>18 understand it now. I won't violate it.</p> <p>19 THE COURT: Understood. Thank you.</p> <p>20 (Thereupon, the sidebar was concluded and</p> <p>21 the following proceedings were held in open</p> <p>22 court:)</p> <p>23 THE COURT: Okay. You can ask a new</p> <p>24 question.</p> <p>25</p>	<p style="text-align: right;">Page 448</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. Did your core team sexually harass someone</p> <p>3 because they were gay?</p> <p>4 A. No.</p> <p>5 Q. You don't have any recollection of that? You</p> <p>6 don't recall defending them?</p> <p>7 A. Someone for -- no. Somebody sexually harassing</p> <p>8 somebody because they were gay? No, I don't recall</p> <p>9 that.</p> <p>10 Q. I don't know if you're trying to split hairs</p> <p>11 with me, but it would seem pretty easy to me, either</p> <p>12 you did or you didn't sexually harass --</p> <p>13 A. I don't -- I don't recall that.</p> <p>14 Q. You don't recall it? Did it happen --</p> <p>15 something -- I remember I didn't murder somebody at</p> <p>16 lunch. Do you remember whether or not your team</p> <p>17 members sexually harassed someone because they were</p> <p>18 gay on your core team member site?</p> <p>19 A. One of my team members made a comment about</p> <p>20 another flight attendant. He was investigated. But</p> <p>21 the flight attendant that made the comment was gay.</p> <p>22 So I don't -- so no, not to my knowledge.</p> <p>23 Q. And so what was the comment, then? What was</p> <p>24 the comment they were investigated for?</p> <p>25 A. I don't recall the details of the comment. It</p>

<p style="text-align: right;">Page 449</p> <p>1 was something -- it was something not nice about 2 another flight attendant. I think it may have been 3 about their appearance. 4 Q. And I'm sure that you took action against that 5 core team member that said something not nice about 6 the flight attendant? Oh, no, wait, you didn't, 7 right? Oh, no, you defended them? 8 A. Is that a question? 9 Q. Yes. Did you defend them as opposed to 10 reprimand them, how about that? 11 A. I defended all of the flight attendants that 12 had social media violations at that time. 13 MR. PRYOR: Exhibit 23. We move for its 14 admission. 23. 15 THE COURT: 23, I have Union objections 16 from this morning. 17 MR. McKEEBY: No objection. 18 THE COURT: No from Southwest. Okay. 19 Anything else to add to Union from this 20 morning? 21 Okay. I will overrule the Union 22 objections and we can publish 23. 23 (The referred-to document was admitted in 24 Evidence as Plaintiff's Exhibit 23.) 25</p>	<p style="text-align: right;">Page 450</p> <p>1 BY MR. PRYOR: 2 Q. Ma'am, is this one of your -- Exhibit 23 one of 3 your president's messages to flight attendants? 4 A. Yes. 5 Q. And I just want to make sure I get this into 6 evidence. 7 You acknowledge that the contract you 8 negotiated was -- it missed the mark, and as team 9 leader you own that, and that you were the lead 10 negotiator? True? 11 A. Yes. 12 MR. PRYOR: Let's look at -- I think it is 13 134. Let me check, before you put it up. 14 Q. Ma'am -- 15 MR. PRYOR: I'm not offering it at this 16 point. 17 BY MR. PRYOR: 18 Q. For the recall petition, you were president at 19 the time, correct? 20 A. Yes. 21 Q. The recall verification committee, who 22 appointed the recall verification committee? 23 A. The executive board. 24 Q. The executive board includes Audrey Stone, one 25 of the people to be recalled, correct?</p>
<p style="text-align: right;">Page 451</p> <p>1 A. Yes. 2 Q. And it includes Brett Nevarez, one of the 3 people to be recalled, correct? 4 A. Yes. 5 Q. And it included John Parrott, one of the people 6 to be recalled, correct? 7 A. Yes. 8 MR. PRYOR: 52. Let's look at Trial 9 Exhibit 52. We will move for its admission. 10 THE COURT: 52? I don't have any 11 objections to 52. 12 MR. McKEEBY: It wasn't listed, but I 13 don't think I have any objection. 14 MR. PRYOR: It wasn't in our report last 15 night. 16 THE COURT: It is not on the last night 17 list. I can call a break and see if they have an 18 objection at the break. How about that? 19 Okay. I'm going to call the first 20 afternoon break. We will do a ten-minute break. 21 We'll see you back here at 2:38. Same three 22 instructions: Only talk to your fellow jurors and 23 court personnel, just not about the case; don't talk 24 to anyone else; and don't do any research. 25 All rise for the jury.</p>	<p style="text-align: right;">Page 452</p> <p>1 (The jurors exited the courtroom.) 2 THE COURT: Okay. Same instructions to 3 you. You can take your break, but you just can't 4 talk to anyone about the case. 5 Any issues we need to talk about? So 6 y'all look at 52, and then we will come back a few 7 minutes early and then see if y'all have objections 8 to 52. Sounds good. See you in a minute. 9 10 MR. GREENFIELD: What time, Judge? 11 THE COURT: So we are back here at maybe 12 2:36. Sound good? 13 MR. GREENFIELD: Thank you. 14 THE COURT: See you in a few. 15 (Recess.) 16 THE COURT SECURITY OFFICER: All rise. 17 THE COURT: Is there anything to say about 18 52? 19 MR. McKEEBY: No objection. 20 No objection. Yeah, no objection. There 21 is another issue, but it is not -- we can handle it 22 later. 23 THE COURT: Okay. That works. Okay. 24 Let's bring in the jury. 25 (The jurors entered the courtroom.)</p>

<p style="text-align: right;">Page 453</p> <p>1 THE COURT: Thank you. You can be seated. 2 Okay. I have admitted Exhibit 52 into 3 evidence. 4 And you can proceed, Mr. Pryor. 5 (The referred-to document was admitted in 6 Evidence as Plaintiff's Exhibit 52.) 7 BY MR. PRYOR: 8 Q. Now, I'm looking at Exhibit 52. It is a 9 January 10, January 12 -- it will be up on the 10 screen in a minute, I hope -- TWU Local 556 11 executive board meeting synopsis. 12 Do you see that? 13 A. Yes, sir. 14 Q. And you were at that meeting? 15 A. Yes. 16 MR. PRYOR: And let's go to the next page. 17 BY MR. PRYOR: 18 Q. Under Working Women's Committee, at the bottom. 19 Do you see it? 20 A. Yes. 21 Q. Lori worked with Working Women's Committee 22 Chair, Jessica Parker, on coordination of meetings 23 and events during the Women's March on Washington on 24 January 21. Lori procured a TWU Local 556 WWC 25 banner that will be used at the march and future</p>	<p style="text-align: right;">Page 454</p> <p>1 events. 2 And is that what happened? 3 A. Yes. 4 Q. Did the banner say "Southwest Airlines" on it? 5 A. Yes. I believe it said the "Union of Southwest 6 Flight Attendants." 7 MR. PRYOR: Your Honor, can I approach? 8 THE COURT: Yes. 9 (Thereupon, the following proceedings were 10 had at sidebar:) 11 MR. PRYOR: I'm going to ask if Southwest 12 Airlines ever took any action against them for using 13 Southwest Airlines's name on that banner and at the 14 march. And I think I can, but I'm a little worried 15 because I truly don't want to do what I'm not 16 supposed to. 17 THE COURT: Sure. And it is not another 18 employee, an employee discipline situation, so I 19 don't think it is in limine point 1. 20 MR. McKEEBY: Exactly. No, I think that 21 is a fair question. 22 THE COURT: Thank you for asking. This 23 time is on me. 24 MR. PRYOR: And I hope I can say it right. 25 (Thereupon, the sidebar was concluded and</p>
<p style="text-align: right;">Page 455</p> <p>1 the following proceedings were held in open 2 court:) 3 THE COURT: Okay. You can ask that 4 question that we were thinking of. 5 MR. PRYOR: Thank you, Your Honor. 6 BY MR. PRYOR: 7 Q. Ma'am, to your knowledge, did Southwest 8 Airlines, at any time, take any action against 9 anyone with the union for utilizing Southwest 10 Airlines's name at that march? 11 A. No, not to my knowledge. 12 MR. PRYOR: Let's look at Exhibit 53. 13 Your Honor, we move for the admission of 14 Exhibit 53. 15 MR. McKEEBY: No objection from Southwest. 16 THE COURT: Okay. I have yours from this 17 morning. 18 MR. GREENFIELD: And if we can approach on 19 that. 20 THE COURT: You can approach on that. 21 (Thereupon, the following proceedings were 22 had at sidebar:) 23 MR. PRYOR: I was worried I wasn't going 24 to get my mileage in today. 25 MR. GREENFIELD: I was too.</p>	<p style="text-align: right;">Page 456</p> <p>1 THE COURT: Okay. Argument? 2 MR. GREENFIELD: Yes. First of all, your 3 Honor, the document is altered. It is highlighted. 4 We don't know where it came from. It is incomplete. 5 It is a partial list of potential sponsors. We 6 don't know the veracity of who the sponsors or where 7 the document came from. 8 It is just wholly inappropriate. It is a 9 piece of evidence we don't know where it came from, 10 it has been altered, and it is a partial document. 11 THE COURT: You address those. 12 MR. PRYOR: I don't know what he means 13 about authored. This -- 14 MR. GREENFIELD: It's got, like, purple 15 highlighting -- 16 MR. PRYOR: Oh, that -- 17 MR. GREENFIELD: -- and yellow highlighter 18 on it. 19 MR. PRYOR: I'll have to look at it. 20 MR. GREENFIELD: Well, highlighting 21 planned Parenthood specifically, which again, we 22 think is just intended to inflame the jury. 23 MR. PRYOR: Or intended to show them what 24 I want to talk about. But I don't -- frankly don't 25 know what is on the exhibit other than it is a</p>

<p style="text-align: right;">Page 457</p> <p>1 document I think that she has recognized and can 2 identify as the document that shows who the sponsors 3 of the Women's March was. That is the reason I'm 4 offering it. I can limit it to to the first page, I 5 guess, although there is -- 6 MR. GREENFIELD: That is the problem, it 7 is a partial document. It is just one page showing 8 a handful of the sponsors of the -- 9 MR. PRYOR: It shows the premier sponsors. 10 There are two premier sponsors. 11 THE COURT: You can ask her that. 12 MR. PRYOR: Okay. 13 THE COURT: And if she doesn't know, you 14 can use it to refresh her recollection without it 15 coming into evidence. But I do have concerns, given 16 the alterations of the -- 17 MR. PRYOR: Fair enough. Absolutely. 18 THE COURT: So you have got a path 19 forward. 20 MR. PRYOR: Okay. 21 THE COURT: Any other concerns? 22 MR. McKEEBY: No. Well, I will go back 23 and look at the document. 24 MR. PRYOR: I may look at it, too. 25 THE COURT: Got it.</p>	<p style="text-align: right;">Page 458</p> <p>1 (Thereupon, the sidebar was concluded and 2 the following proceedings were held in open 3 court:) 4 MR. PRYOR: Can I get a copy of 5 Exhibit 53? 6 MR. PRYOR: May I approach the witness, 7 your Honor? 8 THE COURT: You may. 9 BY MR. PRYOR: 10 Q. Ma'am, can you identify the first page of 11 Exhibit 53? 12 A. It looks like it is -- 13 Q. Well, hang on. I want to be careful here. 14 Is this a document that you have seen before, 15 how about that? 16 A. No. 17 Q. Is this is a document that is consistent with 18 your recollection regarding who the sponsors of the 19 Women's March was? Were? Are? It is one of those. 20 A. No. There is names on here I have not even 21 heard of. 22 Q. Well, does it refresh your recollection as to 23 Planned Parenthood? Or do you need it refreshed? 24 A. I'm aware that Planned Parenthood had a part in 25 the march, yes.</p>
<p style="text-align: right;">Page 459</p> <p>1 Q. Well, there is having a part in the march and 2 then there is the premier sponsor, the major 3 sponsor. 4 Are you aware that Planned Parenthood was one 5 of the two premier sponsors of the Women's March? 6 MR. GREENFIELD: Objection, your Honor. 7 He's testifying if she's aware that they were. 8 There's been -- 9 THE COURT: Sustained. Hold on. No 10 speaking objections. Sustained. You can rephrase 11 it. 12 BY MR. PRYOR: 13 Q. Ma'am, do you know who the premier sponsors of 14 the Women's March were? 15 A. According to this, Planned Parenthood and 16 something called NRDC. 17 Q. As you sit here today, you are telling us that 18 you sent Local 556 to a march without knowing who 19 the premier sponsors were? 20 A. I didn't -- I did not know -- I'm still not 21 familiar with who NRDC is. 22 Q. Let's try Planned Parenthood. 23 Do you know who they are? 24 A. Yes. 25 Q. And you knew when you went to the Women's March</p>	<p style="text-align: right;">Page 460</p> <p>1 that Planned Parenthood was one of the major 2 sponsors of the march? 3 A. Yes. 4 Q. Do you know what a "pink out" is? 5 A. No. 6 Q. You never heard of a "pink out" in connection 7 with the Women's March on Southwest Airlines's 8 flights? 9 A. Yes. 10 Q. Tell us what it is. 11 A. I believe it is referring to, there were flight 12 attendants that changed the lights on our newer 13 aircraft that have different colored light settings 14 and changed them to pink on some of the flights 15 going in and out of the Baltimore/Washington area. 16 Q. And is that consistent with Southwest 17 Airlines's policies, that the flight attendants can 18 make decisions to choose a political cause and do 19 something on the plane for it? 20 A. No. 21 Q. And so you believe they violated policy? 22 A. The flight attendants that did that? Yes. 23 Q. Do you know if anyone lost their job? 24 A. I don't know. I don't believe so. 25 Q. I was going to say, don't you think you would</p>

<p style="text-align: right;">Page 461</p> <p>1 have heard if someone lost their job?</p> <p>2 A. I don't think so.</p> <p>3 Q. You don't think so, you would have heard, or</p> <p>4 you don't think so, no one lost their job?</p> <p>5 A. I don't think anyone lost their job.</p> <p>6 Q. Okay. So far, the only person that lost their</p> <p>7 job that we have talked about is Charlene Carter,</p> <p>8 right?</p> <p>9 A. That lost their job at Southwest Airlines?</p> <p>10 Q. That we have talked about today. These</p> <p>11 employees that --</p> <p>12 THE COURT: Counsel, will you approach?</p> <p>13 MR. PRYOR: Sorry.</p> <p>14 (Thereupon, the following proceedings were</p> <p>15 had at sidebar:)</p> <p>16 MR. PRYOR: I made it about 20 minutes --</p> <p>17 THE COURT: I give up. I'm just -- I'm</p> <p>18 done.</p> <p>19 MR. GREENFIELD: Now we are in the thick</p> <p>20 of it. Now she's got to talk about it.</p> <p>21 MR. McKEEBY: I don't think she has to</p> <p>22 talk about it.</p> <p>23 MR. GREENFIELD: She does.</p> <p>24 THE COURT: How about I go tell the jury</p> <p>25 that I have said, based on my prior rulings in this</p>	<p style="text-align: right;">Page 462</p> <p>1 case, that how Southwest disciplined other employees</p> <p>2 is not relevant to this okay case?</p> <p>3 MR. PRYOR: Yes, your Honor, I deserve</p> <p>4 that.</p> <p>5 THE COURT: Okay.</p> <p>6 (Thereupon, the sidebar was concluded and</p> <p>7 the following proceedings were held in open</p> <p>8 court:)</p> <p>9 THE COURT: Okay. So I will tell the</p> <p>10 jury, I have had a prior ruling in this case that</p> <p>11 how Southwest treated other people is not relevant</p> <p>12 to this employment lawsuit. So I have cut that</p> <p>13 segment of the world out, so y'all don't have to</p> <p>14 hear about how they treated anyone else.</p> <p>15 With that, you can ask a new question, if</p> <p>16 you have one.</p> <p>17 MR. PRYOR: Thanks, Your Honor.</p> <p>18 And I apologize for asking the question.</p> <p>19 I understand that ruling, your Honor. I appreciate</p> <p>20 that.</p> <p>21 BY MR. PRYOR:</p> <p>22 Q. Okay. Let's go to Exhibit 56.</p> <p>23 And we move for the introduction of Exhibit 56.</p> <p>24 THE COURT: All right. I have morning</p> <p>25 objections from the union and none from Southwest.</p>
<p style="text-align: right;">Page 463</p> <p>1 I know what I'm going to rule on this. Need a</p> <p>2 sidebar or are you okay?</p> <p>3 MR. GREENFIELD: If you already have your</p> <p>4 decision made, Your Honor, I don't think we need to.</p> <p>5 THE COURT: Pictures aren't hearsay.</p> <p>6 There is one exception, but it is not in this case.</p> <p>7 So I will allow them into evidence and 56 can come</p> <p>8 in over the objection.</p> <p>9 (The referred-to document was admitted in</p> <p>10 Evidence as Plaintiff's Exhibit 56.)</p> <p>11 BY MR. PRYOR:</p> <p>12 Q. Let's look at AP -- page AP31.</p> <p>13 Well, first of all, let's look on the first</p> <p>14 page.</p> <p>15 Exhibit 56, these are some pictures from some</p> <p>16 or all of the people that attended the Working</p> <p>17 Women's March in Washington DC?</p> <p>18 A. No.</p> <p>19 Q. What is it?</p> <p>20 A. It is a photograph of the people that attended</p> <p>21 the TWU Local 556 Working Women's Committee Meeting</p> <p>22 held in conjunction with TWU International in DC.</p> <p>23 Q. Okay. And for that meeting up there in</p> <p>24 conjunction with this march, the union paid for all</p> <p>25 of these people to go up there, right?</p>	<p style="text-align: right;">Page 464</p> <p>1 A. No. I believe all of the flight attendants</p> <p>2 volunteered their time for that meeting, with the</p> <p>3 exception of me, and I was on a salary as part of my</p> <p>4 position.</p> <p>5 Q. What about the hotels and airfare?</p> <p>6 A. The airfare was provided by Southwest Airlines,</p> <p>7 per our Collective Bargaining Agreement, that says</p> <p>8 Southwest will provide travel for union business.</p> <p>9 And the hotels were paid for by the union out of the</p> <p>10 Working Women's Committee budget.</p> <p>11 Q. It was paid for by the union?</p> <p>12 A. The hotels, yes.</p> <p>13 Q. And I'm missing -- you are just going to have</p> <p>14 to pull that closer to your mouth for me. I</p> <p>15 couldn't hear the last part. It was paid for by the</p> <p>16 union, what?</p> <p>17 A. The hotels were paid for by the union out of</p> <p>18 the Working Women's Committee meeting -- Working</p> <p>19 Women's Committee budget.</p> <p>20 Q. And who funded that budget?</p> <p>21 A. Budgets were funded through union dues.</p> <p>22 Q. So in other words, the union paid for it?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And by the way, it says on that banner</p> <p>25 "Southwest Airlines," right?</p>

<p style="text-align: right;">Page 465</p> <p>1 A. Yes. Our logo always includes that.</p> <p>2 Q. And that was the banner that was carried in the</p> <p>3 March?</p> <p>4 A. Yes.</p> <p>5 Q. Okay.</p> <p>6 MR. PRYOR: Let's look at AP31.</p> <p>7 BY MR. PRYOR:</p> <p>8 Q. Are you in this picture?</p> <p>9 A. Yes.</p> <p>10 Q. You are part of the march?</p> <p>11 A. Yes. I was there for part of the march.</p> <p>12 Q. Okay. Let's look at 32.</p> <p>13 And under -- by the way, these are Facebook</p> <p>14 posts on, what, the union's Facebook page?</p> <p>15 A. Yes, part of it is. And then it looks like</p> <p>16 someone shared the post from the Union's Facebook</p> <p>17 page.</p> <p>18 Q. By the way, the Union Facebook page, you can't</p> <p>19 put comments on?</p> <p>20 A. That is correct. It was a one-sided</p> <p>21 communication avenue.</p> <p>22 Q. And this is a picture posted on the Union</p> <p>23 Facebook page about the march that says, My body, my</p> <p>24 choice, correct?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 466</p> <p>1 Q. Let's look at 43, I think -- not 43, 49. Look</p> <p>2 at 49.</p> <p>3 And this, again, is on the Union Facebook page</p> <p>4 with pictures from the march and pictures of flight</p> <p>5 attendants in their uniforms on a Southwest Airlines</p> <p>6 flight, correct?</p> <p>7 A. I'm assuming so. I can't tell -- this document</p> <p>8 doesn't have a header like the first one did that</p> <p>9 shows where it was posted.</p> <p>10 Q. So you are questioning as to whether or not</p> <p>11 it's on some other social media site or the union?</p> <p>12 A. Right. I just -- I just can't determine that.</p> <p>13 It just uploads. It doesn't show where it is being</p> <p>14 displayed.</p> <p>15 Q. Okay. Someone is posting pictures of people in</p> <p>16 Southwest Airlines's uniforms at the time of the</p> <p>17 march, either a few days before or a few days after,</p> <p>18 along with pictures of people at the Women's March,</p> <p>19 true?</p> <p>20 MR. GREENFIELD: Objection, your Honor,</p> <p>21 lack of foundation.</p> <p>22 THE WITNESS: Yes.</p> <p>23 MR. GREENFIELD: We don't know where these</p> <p>24 pictures came from, who posted them.</p> <p>25 THE COURT: I will allow it. I will allow</p>
<p style="text-align: right;">Page 467</p> <p>1 it. She can answer if she has knowledge.</p> <p>2 BY MR. PRYOR:</p> <p>3 Q. Your answer was yes, ma'am?</p> <p>4 A. That they were posted somewhere, yes.</p> <p>5 Q. I understand you are not sure where they were</p> <p>6 posted, at least this picture.</p> <p>7 Now, as a result of this, you received</p> <p>8 communications on Audrey Stone TWU Facebook page,</p> <p>9 you received a Facebook message from Charlene</p> <p>10 Carter?</p> <p>11 A. At the time of the March, I do not believe my</p> <p>12 Facebook was designated Audrey Stone TWU. It had</p> <p>13 been at one point in the past. I received messages</p> <p>14 from Charlene Carter shortly following this via</p> <p>15 instant messenger on Facebook.</p> <p>16 Q. And it was to a Facebook page that was Audrey</p> <p>17 Stone TWU, correct?</p> <p>18 A. No. That is what I just said, I do not believe</p> <p>19 it was labeled Audrey Stone TWU at the point that</p> <p>20 she communicated with me following the march, that</p> <p>21 it was just Audrey Stone.</p> <p>22 Q. Would you be surprised that you didn't change</p> <p>23 it until after the complaint you filed against</p> <p>24 Charlene?</p> <p>25 A. I don't remember when I changed it.</p>	<p style="text-align: right;">Page 468</p> <p>1 Q. You can swear under oath, though. It was not</p> <p>2 Audrey Stone TWU at the time that you sent it?</p> <p>3 A. That is not what I said. I said I did not</p> <p>4 think it was Audrey Stone TWU, that I believed it</p> <p>5 was just Audrey Stone. I knew I had changed it at</p> <p>6 some point.</p> <p>7 Q. You did.</p> <p>8 If it was Audrey Stone TWU at the time Charlene</p> <p>9 Carter sent her Facebook message to you, does that</p> <p>10 change your opinion about whether or not you should</p> <p>11 have reported something received from a union</p> <p>12 member?</p> <p>13 A. No.</p> <p>14 Q. So even if it came to Audrey Stone TWU, it is</p> <p>15 still inappropriate and the union should take</p> <p>16 action?</p> <p>17 A. I still believe that it would have been</p> <p>18 inappropriate and that Southwest Airlines should</p> <p>19 take action in investigating.</p> <p>20 Q. You certainly used Audrey Stone TWU Facebook</p> <p>21 page for union activities, true?</p> <p>22 A. At points during my presidency, yes.</p> <p>23 Q. By the way, at some point, did you send out an</p> <p>24 email to all of these people, or a Facebook message</p> <p>25 to all of these people that you have been sending</p>

<p style="text-align: right;">Page 469</p> <p>1 Facebook messages to about union activities, Audrey 2 Stone TWU, did you ever send out something saying, 3 That is no longer Audrey Stone TWU, that is now my 4 personal Facebook page? Did you ever do that? 5 A. No. I did not often use Facebook as a vehicle 6 for communicating with members. 7 Q. Now, but you did. You used it to communicate 8 with Facebook members, including Charlene Carter? 9 A. I said I didn't often use it. And I did not 10 use it to communicate with Charlene Carter. 11 Charlene Carter utilized my Facebook to communicate 12 with me. It was a one-way communication. 13 Q. You never sent out a blast Facebook message 14 encouraging flight attendants to support -- or to 15 oppose right-to-work laws? 16 A. No. 17 Q. You never sent any message from your Audrey 18 Stone TWU saying, Support my Candacey? 19 A. Facebook messages? 20 Q. Yes. 21 A. Yes. 22 Q. From Audrey Stone TWU? 23 A. I made posts, I didn't send messages -- 24 Q. Okay. Posts -- 25 A. -- via Facebook to members.</p>	<p style="text-align: right;">Page 470</p> <p>1 Q. Let me try it again. 2 Did you use Audrey Stone TWU Facebook to make 3 posts to members of the union? 4 A. If they were a friend of mine on Facebook, yes. 5 Q. You -- and who-all were your friends? You 6 didn't have access to all of the flight attendants, 7 it was only a select few friends? 8 A. I never had -- my Facebook was not a public 9 account. 10 Q. I didn't ask if it was public. 11 Did you use it to send messages to flight 12 attendants in connection with your campaign for 13 union president? 14 A. If they were a Facebook friend of mine, or on a 15 group that I was a member of. But to the general 16 membership, no. 17 Q. So how many flight attendants did you send 18 these to, do you suppose? Are we talking 5? 50? 19 100? 20 A. Which post? 21 Q. The post -- let's just use "Support your 22 Candidacy"? 23 A. I don't recall how many Facebook friends I had 24 during the election in 2015. 25 Q. And in fact, didn't you set up a different</p>
<p style="text-align: right;">Page 471</p> <p>1 Facebook account for your family activities as 2 opposed to Audrey Stone TWU? 3 A. I initially did. And then quickly into my 4 presidency, I realized that I just didn't have time 5 to stay abreast via Facebook and that that wasn't 6 going to be a communication tool that I used 7 primarily. 8 Q. I hear what you want to say, but is my 9 statement correct? 10 A. Yes. 11 Q. And by the way, that other Facebook account, 12 what was it called? 13 A. Audrey Stone. 14 Q. And what is your understanding of whether or 15 not it violates Facebook rules to have two Facebook 16 pages for the same person? 17 A. I don't know anything about -- 18 MR. McKEEBY: Objection. 19 THE COURT: Sustained. 20 BY MR. PRYOR: 21 Q. You had two Facebook pages, one of them was 22 Audrey Stone, one of them was Audrey Stone TWU; 23 correct? 24 A. Yes. 25 Q. Now, when you received a communication from</p>	<p style="text-align: right;">Page 472</p> <p>1 Charlene Carter, you were at the airport getting 2 ready to get on a flight? 3 A. When I received one of the communications from 4 Charlene Carter, yes. 5 Q. The message that you ended up filing a 6 complaint against her for? 7 A. Yes. 8 Q. Can you bring that closer to your mouth, lean 9 forward? 10 A. Yes. 11 Q. And when you got this message, you clicked on 12 the message for it to play? 13 A. I opened Facebook Messenger, and her message 14 was at the top as the most recent message. And when 15 I opened the message, the video started playing. 16 Q. So the way Facebook Messenger works is, you 17 open it, but you then you click on the video, if you 18 want to watch it, it doesn't automatically play. 19 Do you understand that? 20 MR. GREENFIELD: Objection. The witness 21 is testifying -- or, excuse me -- counsel is 22 testifying. 23 THE COURT: I will allow you to rephrase 24 it. 25</p>

<p style="text-align: right;">Page 473</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. Isn't it correct that you had to click on the</p> <p>3 video for it to play? That is the way Facebook</p> <p>4 Messenger works?</p> <p>5 A. When I opened it, to pull the message up, it --</p> <p>6 Q. Is it upsetting, ma'am, because you think you</p> <p>7 saw a life? If it is not a life, why are you upset?</p> <p>8 A. I am upset because it was the most graphic,</p> <p>9 disturbing image I have seen.</p> <p>10 Q. What is disturbing about it? Is it because it</p> <p>11 shows a baby? It makes the point she was trying to</p> <p>12 make about what you were doing with that march, that</p> <p>13 is why you are crying?</p> <p>14 A. That is not correct.</p> <p>15 Q. So you are not crying because it was a baby.</p> <p>16 Explain to me why it is graphic and upsetting if it</p> <p>17 is not? What's -- then if it is nothing, what is</p> <p>18 upsetting about it?</p> <p>19 A. I didn't say it was nothing.</p> <p>20 Q. Okay. It is something. Okay.</p> <p>21 So let me just see if I understand. You are</p> <p>22 telling us that that video started playing without</p> <p>23 you asking it to, without you clicking on it.</p> <p>24 A. When I opened it, I may have inadvertently hit</p> <p>25 play. It all happened so fast. I was horrified. I</p>	<p style="text-align: right;">Page 474</p> <p>1 was about to board a flight in Denver. And I opened</p> <p>2 it -- I was watching Facebook, and the next thing I</p> <p>3 know, it was playing.</p> <p>4 Q. Okay. So you may have inadvertently clicked</p> <p>5 play.</p> <p>6 And did you read the message before you clicked</p> <p>7 play verterntly or inadvertently?</p> <p>8 A. No, I stopped. I stopped it. And I did not</p> <p>9 read any further at that moment.</p> <p>10 Q. How many seconds did you watch the video before</p> <p>11 you stopped it?</p> <p>12 A. I don't remember exactly how many seconds it</p> <p>13 was.</p> <p>14 Q. Okay. But it was seconds? You didn't watch it</p> <p>15 for very long, it was too upsetting to you, correct?</p> <p>16 A. Correct.</p> <p>17 Q. Would you say three seconds? How long before</p> <p>18 you realized, I don't want to watch this, if it is</p> <p>19 so graphic? Was it two seconds?</p> <p>20 MR. GREENFIELD: Objection, your Honor.</p> <p>21 MR. GILLIAM: Three seconds?</p> <p>22 MR. GREENFIELD: Asked and answered, she</p> <p>23 said she doesn't remember.</p> <p>24 And it is my understanding that there is</p> <p>25 the law, but there is also the language in the</p>
<p style="text-align: right;">Page 475</p> <p>1 contract under Article III that ultimately Southwest</p> <p>2 can decide what is or isn't a violation of their</p> <p>3 policy regardless of what kind of activity it is.</p> <p>4 BY MR. PRYOR:</p> <p>5 Q. Oh, let's look at that. Article III is going</p> <p>6 to say that? That is your testimony under oath,</p> <p>7 ma'am?</p> <p>8 A. No, sir. I'm saying that is my understanding.</p> <p>9 Q. No, no, let's look at it.</p> <p>10 MR. PRYOR: May I approach?</p> <p>11 THE COURT: You may.</p> <p>12 BY MR. PRYOR:</p> <p>13 Q. In the contract you negotiated you swore to</p> <p>14 under oath that says illegal activity is all you can</p> <p>15 do when someone is engaged in union activity. Go,</p> <p>16 give to me.</p> <p>17 A. That is not what I stated.</p> <p>18 Q. Article III. Common on, you just swore to it.</p> <p>19 It is different than what you swore to this morning?</p> <p>20 A. I did not swear to what you just stated.</p> <p>21 Q. Are you wanting to withdraw what you said? In</p> <p>22 fact, you cannot report a union member engaged in</p> <p>23 legal union activity and you did. Right?</p> <p>24 MR. GREENFIELD: Objection, your Honor,</p> <p>25 asking for a legal conclusion again.</p>	<p style="text-align: right;">Page 476</p> <p>1 THE COURT: I will allow it.</p> <p>2 THE WITNESS: I do not believe that I</p> <p>3 violated the law by bringing my concerns forward to</p> <p>4 Southwest Airlines.</p> <p>5 BY MR. PRYOR:</p> <p>6 Q. You want to go ahead and answer my question</p> <p>7 now?</p> <p>8 I understand what you want to say.</p> <p>9 You told us, Article III, it says it.</p> <p>10 No. Article III doesn't say that. You know</p> <p>11 it.</p> <p>12 You know that you reported someone to the</p> <p>13 company for engaging in legal union activity to</p> <p>14 retaliate against her because she was on the recall</p> <p>15 petition.</p> <p>16 A. No. Absolutely not. I did not do anything to</p> <p>17 retaliate against Charlene Carter. And I do not</p> <p>18 believe that what she did in the totality of</p> <p>19 everything she sent in that batch was protected</p> <p>20 union activity.</p> <p>21 No one.</p> <p>22 Q. So the video was so upsetting, it is outside</p> <p>23 union activity, when -- what about religious</p> <p>24 activity, when her religious beliefs are that that</p> <p>25 is murder? You don't have to agree with her. And</p>

<p style="text-align: right;">Page 477</p> <p>1 I'm not up here taking a position either. But she 2 believes it and her religion tells her to confront 3 that, and speak truth to the situation. 4 And it must have spoken to you in a way because 5 you cry about it. 6 MR. McKEEBY: Objection, testifying, 7 foundation as to Ms. Carter's belief. 8 THE COURT: Sustained. 9 BY MR. PRYOR: 10 Q. Isn't that why you cried about it, ma'am? 11 THE COURT: I sustained that. Can you ask 12 a new question free standing? 13 MR. PRYOR: I will. I will, let me get my 14 notes back. 15 Q. You don't want to talk to us about Article III, 16 ma'am? 17 A. I have repeatedly said that the way you are 18 repeating my comment about Article III is incorrect. 19 Q. We are doing a daily transcript. Maybe we will 20 show that to the jury in closing if we have that. 21 You are okay with that? 22 MR. GREENFIELD: Can we have a sidebar? 23 THE COURT: Sustained. 24 BY MR. PRYOR: 25 Q. Ma'am, let's look at exhibit -- I think it is</p>	<p style="text-align: right;">Page 478</p> <p>1 66. 2 BY MR. PRYOR: 3 Q. Did you watch the George Floyd video? 4 MR. GREENFIELD: Objection, your Honor, 5 relevance. 6 THE COURT: Sustained. 7 BY MR. PRYOR: 8 Q. Do you believe that a video is an effective 9 means of showing someone what is really happening 10 and effect change? 11 A. I think it depends on the circumstance. 12 Q. Okay. How about in the situation of George 13 Floyd, then? 14 MR. GREENFIELD: Objection, Your Honor. 15 MR. PRYOR: She just raised it -- 16 THE COURT: I will allow it. 17 MR. PRYOR: I missed the ruling. 18 THE COURT: I will allow it. 19 BY MR. PRYOR: 20 Q. So how about the George Floyd video, then? By 21 the way, I'm not -- it is the most disturbing thing 22 I have ever seen. Did it disturb you? 23 A. I didn't watch all of it. 24 Q. I'm sorry? 25 A. I didn't watch all of it.</p>
<p style="text-align: right;">Page 479</p> <p>1 Q. I understand. 2 What you did watch, did it disturb you? 3 A. Yes. 4 Q. And, you know, I think we have heard in this 5 country before, about African-American men being 6 victimized by police, that -- 7 MR. GREENFIELD: Objection, your Honor 8 he's testifying. 9 THE COURT: You have got to let him finish 10 his question first. 11 BY MR. PRYOR: 12 Q. -- but that video changed America, didn't it? 13 MR. GREENFIELD: Objection, Your Honor, 14 he's testifying. Move to strike. There is 15 foundation for anything he's saying. 16 THE COURT: I will sustain that. You can 17 ask -- the last part of your question you can ask. 18 BY MR. PRYOR: 19 Q. Okay. It changed America, didn't it, the 20 video? Thank God someone videoed it. And it was 21 terrible. 22 A. I don't feel like I could speak to whether or 23 not that changed America. 24 Q. So it was terrible, so no one should have had 25 the freedom to post that video and change America,</p>	<p style="text-align: right;">Page 480</p> <p>1 right? Didn't change you, apparently. 2 MR. GREENFIELD: Objection, your Honor. 3 Argumentative. 4 THE COURT: Sustained. 5 BY MR. PRYOR: 6 Q. Did it have an impact on you? 7 A. Yes. 8 Q. Do you believe it changed America? 9 A. No. 10 MR. PRYOR: Let's look at Exhibit 66. 11 BY MR. PRYOR: 12 Q. By the way, before 66, let's look at 13 Exhibit 19. 14 MR. PRYOR: Move to admit Exhibit 19. 15 THE COURT: I don't have anything 16 objection-wise on 19. Anything on 19? 17 MR. GREENFIELD: I'm sorry, this is what 18 number? 19 MR. PRYOR: Nineteen. 20 THE COURT: Nineteen. 21 MR. McKEEBY: No objection. 22 THE COURT: Any from the union to 19? 23 MR. GREENFIELD: I'm pulling it up right 24 now, your Honor. 25 MR. PRYOR: It is the president's message.</p>

<p style="text-align: right;">Page 481</p> <p>1 MR. GREENFIELD: No objection, Your Honor.</p> <p>2 THE COURT: All right. Nineteen is</p> <p>3 admitted. We will publish to the jury.</p> <p>4 (The referred-to document was admitted in</p> <p>5 Evidence as Plaintiff's Exhibit 19.)</p> <p>6 BY MR. PRYOR:</p> <p>7 Q. Let me show you the first page of Exhibit 19</p> <p>8 and ask you if you can identify this document. And</p> <p>9 if you would like a hard copy, I can bring you one.</p> <p>10 Do you recognize it?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. This is a president's message you sent</p> <p>13 out to all of the flight attendants, correct?</p> <p>14 A. Yes, all of the flight attendants that we had</p> <p>15 email addresses on file for.</p> <p>16 Q. Okay. That is 14-, 15,000?</p> <p>17 A. Probably, at that time.</p> <p>18 Q. You sent it to basically your entire union</p> <p>19 membership, to the best of your ability?</p> <p>20 A. Yes.</p> <p>21 Q. And in this, there is a president's message.</p> <p>22 And it says, I address social media, as I recognize</p> <p>23 this is an issue that has the potential to affect</p> <p>24 the vast majority of our work group, whether you are</p> <p>25 on Facebook, Twitter, LinkedIn or any other social</p>	<p style="text-align: right;">Page 482</p> <p>1 media platform. I am pleased that over the last</p> <p>2 month, Southwest Airlines has finally taken us</p> <p>3 seriously.</p> <p>4 You wrote that?</p> <p>5 A. Yes.</p> <p>6 Q. Your union has been addressing Southwest</p> <p>7 Airlines's social media policy for a long time. We</p> <p>8 have been bringing forward your concerns around lack</p> <p>9 of clear guidance on a policy that is both vague and</p> <p>10 undefined. We have witnessed inconsistencies around</p> <p>11 the way the policy is applied and the often</p> <p>12 subjective stance that Southwest management has</p> <p>13 displayed in administering the policy.</p> <p>14 Is that what you wrote?</p> <p>15 A. Yes.</p> <p>16 Q. By the way, where did you mention in here, oh,</p> <p>17 by the way, we are also having these off-the-record</p> <p>18 conversations with Southwest Airlines's management</p> <p>19 about using the social media policy to target union</p> <p>20 members and objectors? Do you cover that in here?</p> <p>21 MR. GREENFIELD: Objection, Your Honor</p> <p>22 he's just testifying.</p> <p>23 THE COURT: Sustained.</p> <p>24 MR. PRYOR: What was the basis of the</p> <p>25 objection?</p>
<p style="text-align: right;">Page 483</p> <p>1 THE COURT: It was lawyer testifying.</p> <p>2 MR. PRYOR: Okay. Let me try it another</p> <p>3 way.</p> <p>4 BY MR. PRYOR:</p> <p>5 Q. Did you include in this message anything about</p> <p>6 the emails we have seen where you know that your</p> <p>7 second vice-president, one of your core team</p> <p>8 members, is having conversations with senior</p> <p>9 management of American Airlines about -- Southwest</p> <p>10 Airlines, sorry; I used to represent American --</p> <p>11 Southwest Airlines about using social media to</p> <p>12 target union members and objectors?</p> <p>13 A. My second vice president, I don't believe, was</p> <p>14 having conversations with members of Southwest</p> <p>15 Airlines' management about targeting objectors.</p> <p>16 Q. You don't recall testifying about the emails</p> <p>17 earlier that we talked about?</p> <p>18 A. The emails that I have seen that involve</p> <p>19 Southwest management were from Brian Talburt, who</p> <p>20 was not the second vice president.</p> <p>21 Q. Well, wait. We saw an email from Rocky</p> <p>22 Mountain, who is Mike Hafner, that said, Yeah, he's</p> <p>23 an ass --</p> <p>24 MR. GREENFIELD: Objection, Your Honor.</p> <p>25</p>	<p style="text-align: right;">Page 484</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. -- do you recall that?</p> <p>3 MR. GREENFIELD: Again, lack of</p> <p>4 foundation, and no evidence introduced in that</p> <p>5 regard.</p> <p>6 MR. PRYOR: No, she identified it.</p> <p>7 THE COURT: I think she did. She can</p> <p>8 answer it.</p> <p>9 THE WITNESS: I don't know who Rocky</p> <p>10 Mountain is and I'm not looking at that right now.</p> <p>11 I believe it was a forward that Talburt sent to</p> <p>12 Brett.</p> <p>13 BY MR. PRYOR:</p> <p>14 Q. I'm not saying it wasn't forwarded to you,</p> <p>15 ma'am. I'm saying you knew these discussions were</p> <p>16 going on.</p> <p>17 As a matter of fact, you told us that you had</p> <p>18 conversations with him about how improper that</p> <p>19 was -- although there is nothing in writing -- but</p> <p>20 you told us verbally you did. Now you are telling</p> <p>21 us you didn't know anything about it? I thought you</p> <p>22 coached him?</p> <p>23 A. Sir, your question, the way I heard it, was</p> <p>24 about conversations that both Mr. Talburt and</p> <p>25 Mr. Nevarez were having privately with members of</p>

<p style="text-align: right;">Page 485</p> <p>1 Southwest Airlines's management. And I am stating I</p> <p>2 do not believe that to be factual.</p> <p>3 Q. What is not factual about it?</p> <p>4 A. That I do not believe Mr. Nevarez was having</p> <p>5 private conversations with members of Southwest</p> <p>6 Airlines's management regarding targeting any</p> <p>7 members.</p> <p>8 Q. Well, how about emails, then? If you don't</p> <p>9 think he had conversations, what about the email</p> <p>10 where he talks about targeting Mike Casper and he</p> <p>11 sends it to Rocky Mountain, and Rocky Mountain says,</p> <p>12 He's an ass?</p> <p>13 MR. GREENFIELD: Objection, your Honor,</p> <p>14 asked and answered. She's testified --</p> <p>15 THE COURT: Sustained.</p> <p>16 BY MR. PRYOR:</p> <p>17 Q. So it is your testimony you coached these</p> <p>18 people about these improper activities. And then</p> <p>19 when you wrote this president's message, you didn't</p> <p>20 include anything about it, is that fair?</p> <p>21 A. Yes.</p> <p>22 Q. So you are telling the members, This is a</p> <p>23 terrible social media policy, and yet over here, you</p> <p>24 know in fact you are trying to make improper use of</p> <p>25 the social media policy, and you don't disclose that</p>	<p style="text-align: right;">Page 486</p> <p>1 in your president's message?</p> <p>2 A. That is not correct.</p> <p>3 Q. So you write, Over the past several weeks, I</p> <p>4 met with various Southwest Airlines leaders,</p> <p>5 including our vice president of cabin services, Mike</p> <p>6 Hafner, right?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And you aren't sure that that is the</p> <p>9 Mike Hafner that Mr. Talburt is talking about?</p> <p>10 MR. GREENFIELD: Objection, asked and</p> <p>11 answered.</p> <p>12 THE COURT: Sustained.</p> <p>13 BY MR. PRYOR:</p> <p>14 Q. Do you recall the email where he talks about it</p> <p>15 is Mike's personal email address, we like to keep</p> <p>16 these discussions off the record? You don't recall</p> <p>17 that?</p> <p>18 MR. GREENFIELD: Objection, asked and</p> <p>19 answered.</p> <p>20 THE COURT: Sustained.</p> <p>21 MR. PRYOR: What was the objection?</p> <p>22 THE COURT: Asked and answered.</p> <p>23 MR. PRYOR: Oh, fair enough.</p> <p>24 BY MR. PRYOR:</p> <p>25 Q. Okay. Then you say, Your voices and your</p>
<p style="text-align: right;">Page 487</p> <p>1 issues have been strongly expressed by your union.</p> <p>2 We have heard you. Over the last weeks, we have</p> <p>3 been working towards seeking resolution on</p> <p>4 outstanding grievances, challenges -- challenging</p> <p>5 the discipline to flight attendants for alleged</p> <p>6 violations of social media policy. We have been</p> <p>7 making progress.</p> <p>8 Did you write that?</p> <p>9 A. Yes.</p> <p>10 Q. And then you say, On a personal note, however,</p> <p>11 please know that the social media issues management</p> <p>12 investigated and the resulting discipline Southwest</p> <p>13 Airlines issued did not arise out of something</p> <p>14 management simply uncovered or stumbled upon. They</p> <p>15 are not generally monitoring our sites.</p> <p>16 Instead, these cases come about as our own</p> <p>17 flight attendants are turning each other in. These</p> <p>18 latest investigations have been the result of flight</p> <p>19 attendant complaints. I am asking that we please</p> <p>20 consider stopping any back and forth fighting on</p> <p>21 social media.</p> <p>22 We are not always going to agree with one</p> <p>23 another, but please recognize that your fellow</p> <p>24 employees are entitled to their own thoughts and</p> <p>25 opinions. If we have a problem, let's work it out</p>	<p style="text-align: right;">Page 488</p> <p>1 as professionals that we are. Please respect one</p> <p>2 another.</p> <p>3 Is that what you wrote?</p> <p>4 A. Yes.</p> <p>5 Q. Did you mean it?</p> <p>6 A. Yes.</p> <p>7 Q. And then on February 22nd, 2017, you sent a</p> <p>8 complaint regarding Ms. Carter to Southwest</p> <p>9 Airlines, true?</p> <p>10 A. Yes.</p> <p>11 Q. And you complained about the social media</p> <p>12 policy that we just read your president's message</p> <p>13 about, true?</p> <p>14 A. Yes.</p> <p>15 MR. PRYOR: Move for the admission of</p> <p>16 Exhibit 66.</p> <p>17 THE COURT: Sixty-six, I don't have an</p> <p>18 objection to.</p> <p>19 MR. McKEEBY: No objection.</p> <p>20 MR. GREENFIELD: Give me one second.</p> <p>21 I do not.</p> <p>22 THE COURT: Okay. Sixty-six is in. We</p> <p>23 will publish.</p> <p>24</p> <p>25</p>

<p style="text-align: right;">Page 489</p> <p>1 (The referred-to document was admitted in 2 Evidence as Plaintiff's Exhibit 66.) 3 BY MR. PRYOR: 4 Q. This is what you sent to Suzanne Stevenson, 5 correct? 6 A. Yes. 7 Q. And who is Suzanne Stevenson? 8 A. At the time, she was the Las Vegas based 9 manager. 10 Q. Okay. And a base manager is your kind of local 11 supervisor out of where your base -- where you fly 12 out of or where you live? 13 A. It is -- it is the managers, the top person. 14 They are above the supervisors in that domicile. It 15 is the top person in the domicile that you are based 16 out of. 17 Q. The top person in your domicile, that is who 18 you report complaints about other employees 19 regarding violation of company policy? 20 A. It is one of the people you can report it to, 21 yes. 22 Q. Well, isn't that typically who you would report 23 it to, base manager? 24 A. There are some flight attendants that report it 25 to a supervisor. There are some flight attendants</p>	<p style="text-align: right;">Page 490</p> <p>1 that report directly to labor relations, a 2 complaint. Some that do employee relations. Some 3 that do all three departments. 4 Q. What is the standard -- go ahead. Are you 5 done? What is the standard policy? You report to 6 base manager? 7 A. Actually, no. In our Southwest policy, it 8 outlines a list of people that you should report 9 harassment to, and a manager is one of the many 10 positions listed as an option. 11 Q. And one of the people you should report to, 12 then, is Suzanne Stevenson, base manager? 13 A. Yes. 14 Q. Now, on that list, it doesn't say you should 15 report it to the head of in-flight, does it? 16 A. Actually, it does. It says, Or the vice 17 president. 18 Q. So you are required to report all complaints to 19 the head of in-flight? 20 A. I didn't say you are required. It is one of 21 the positions people listed under the Southwest 22 Airlines Harassment Policy. 23 Q. The policy is, any time you see a violation, 24 you can report it to anyone in management. But it 25 is unusual to include in your complaint the head of</p>
<p style="text-align: right;">Page 491</p> <p>1 in-flight? 2 A. I don't think so. There were -- I have seen 3 many, many times -- I wouldn't send anything just to 4 one person of this nature. 5 Throughout the course of my union career, I saw 6 things fall through the cracks, balls get dropped, 7 because it went to one individual, and it wasn't 8 seen. And since I went to the base manager, I 9 wasn't going to cc someone in a lower position than 10 hers. 11 Q. Well, you are not required to cc someone. But 12 did you think Suzanne Stevenson was going to drop 13 the ball on this? 14 A. I always counseled flight attendants that if it 15 was something important, they needed to cc someone 16 on written communication they sent to make sure that 17 it had the eyes on it that they intended for it to. 18 Q. And you just happened to send it to Sonya 19 Lacore, the person at in-flight, that you had 20 received emails about her conversations with 21 Mr. Talburt, about targeted assassinations of people 22 like Ms. Coreless and Mr. Casper, true? 23 A. Yes. 24 Q. And so you included Sonya Lacore. You also 25 included Naomi Hudson, who is on the labor relations</p>	<p style="text-align: right;">Page 492</p> <p>1 negotiating team for Southwest Airlines, right? 2 A. She was on the Southwest Airlines negotiating 3 team. Her position at Southwest Airlines was also 4 director of labor relations. 5 Q. So your head of the negotiating team for the 6 union, and you decide to include someone on 7 Southwest Airlines's side of the negotiating team in 8 a complaint against another employee, right? 9 A. Yes. I included her because she was the 10 director of labor relations, and labor relations is 11 involved in any investigation of complaints that is 12 brought forward to Southwest Airlines. 13 Q. So you write this email -- yeah, it is an 14 email. And you say, several things. You say, Below 15 you will see Facebook messages that were sent to me 16 last week by Southwest Airlines flight attendant 17 Charlene Carter. It is in regards to a TWU Local 18 556 Women's Committee meeting. That is what you 19 said, right? 20 A. Yes. 21 Q. It is relating to a union activity according to 22 your own words, correct? 23 A. Yes. 24 Q. And then you say that, I participated in last 25 month in a march that I voluntarily participated in</p>

<p style="text-align: right;">Page 493</p> <p>1 a few days later.</p> <p>2 You say, This message contains two graphic</p> <p>3 videos of an alleged aborted fetus and makes</p> <p>4 reference to murder, as well as political and</p> <p>5 religious comments.</p> <p>6 That is what you wrote? True?</p> <p>7 A. Yes.</p> <p>8 Q. And so, so far, you have acknowledged it is</p> <p>9 union activity, you have acknowledged it is</p> <p>10 political activity, and you have acknowledged it is</p> <p>11 religious activity. True?</p> <p>12 A. Yes.</p> <p>13 Q. It says, I believe these to be a violation of</p> <p>14 the social media policy. Correct?</p> <p>15 A. Yes.</p> <p>16 Q. The policy that you had said shouldn't be</p> <p>17 utilized against flight attendants, and that</p> <p>18 shouldn't be reported by flight attendants, true?</p> <p>19 A. I had said that, yes.</p> <p>20 Q. You also say, I find it obscene and violent, as</p> <p>21 well as threatening in nature.</p> <p>22 So the obscene and violent, is that -- are</p> <p>23 those the videos of the baby? The fetus?</p> <p>24 A. The obscene part -- part of her message, I took</p> <p>25 as a threat.</p>	<p style="text-align: right;">Page 494</p> <p>1 Q. Okay. Let's talk about the threat.</p> <p>2 The threat was, she can't wait to see you</p> <p>3 online, right?</p> <p>4 A. Yes.</p> <p>5 Q. And that was a threat?</p> <p>6 A. There was nothing about any of the messages</p> <p>7 that she had sent --</p> <p>8 Q. Well --</p> <p>9 A. May I finish? There were nothing that were</p> <p>10 friendly, and there had already been conversations</p> <p>11 taking place on social media about what the flight</p> <p>12 attendants were going to do to me when I came back</p> <p>13 online, and that I would need to travel with body</p> <p>14 guards. So yes, I took that as a threat.</p> <p>15 Q. So those other things you are talking about,</p> <p>16 those weren't from Charlene Carter, were they?</p> <p>17 A. The other ones were not.</p> <p>18 Q. And in fact, in the previous messages you had</p> <p>19 received from Charlene, she constantly was telling</p> <p>20 you, she doesn't think you should be a full-time</p> <p>21 paid member of the union and she's looking forward</p> <p>22 after the recall petition to you going back online</p> <p>23 as a flight attendant, isn't that correct? Is it</p> <p>24 correct, ma'am?</p> <p>25 MR. McKEEBY: Objection, talking about</p>
<p style="text-align: right;">Page 495</p> <p>1 documents that are not in evidence.</p> <p>2 THE COURT: Sustained.</p> <p>3 BY MR. PRYOR:</p> <p>4 Q. From your recollection, the communications she</p> <p>5 received -- you received from her, she's telling</p> <p>6 you, she doesn't think you should be union president</p> <p>7 and she can't wait for you not continue to be paid</p> <p>8 with her union dues, and she can't wait to see you</p> <p>9 back online. That is the context, isn't it?</p> <p>10 A. That is not the context that I took that</p> <p>11 message.</p> <p>12 Q. So you don't think that is the context?</p> <p>13 A. No.</p> <p>14 Q. And so you took that phrase that you used</p> <p>15 yourself many times as a threat, true?</p> <p>16 A. Yes.</p> <p>17 Q. And so did you report her to the police?</p> <p>18 A. No, I did not report her.</p> <p>19 Q. No, you reported her to Southwest Airlines, not</p> <p>20 the police, for a threat, true?</p> <p>21 A. Yes.</p> <p>22 Q. In the next paragraph, you say, I'm fearful to</p> <p>23 return to my job as a line flying -- line flying</p> <p>24 flight attendant due to repeated personal attacks</p> <p>25 and threats made both via social media, as well as</p>	<p style="text-align: right;">Page 496</p> <p>1 altercations that occurred face-to-face while I have</p> <p>2 been on a Southwest Airlines plane.</p> <p>3 None of those involved Charlene Carter, these</p> <p>4 are other attacks and threats that you are talking</p> <p>5 about?</p> <p>6 A. Yes.</p> <p>7 Q. And you included them in your complaint against</p> <p>8 Charlene Carter, correct?</p> <p>9 A. Yes, because I viewed her comment as a threat.</p> <p>10 Q. I'm sorry?</p> <p>11 A. Yes, because I viewed her comment toward me as</p> <p>12 a threat.</p> <p>13 Q. No, I understand you are saying, I will see you</p> <p>14 online as a threat.</p> <p>15 But you then talk about personal attacks and</p> <p>16 threats and being -- face-to-face encounters on the</p> <p>17 airplane, you are talking about other things you</p> <p>18 were dealing with, correct?</p> <p>19 A. Yes.</p> <p>20 Q. And you included that in your complaint against</p> <p>21 Charlene Carter?</p> <p>22 A. Yes.</p> <p>23 Q. And then you go on to say, I am personally pro</p> <p>24 choice. But then you go on to say, However, I</p> <p>25 believe in equality and individual rights, and will</p>

<p style="text-align: right;">Page 497</p> <p>1 continue to support causes and events that promote 2 fundamental rights. 3 Because what you are saying is, you are pro 4 choice? 5 A. No. I immediately sent another email when I 6 realized I had mistyped. 7 Q. Ma'am, you are going to have to hold the 8 microphone to your mouth. 9 A. No. I immediately sent a second email when I 10 went back and reread what I had typed. And I said I 11 was personally -- personally pro life. 12 Q. Are you finished with your answer? 13 A. Yes. 14 Q. In fact, what you wrote was, that you are 15 personally pro choice. You may believe abortion 16 involves a life, but you are pro choice. Let a 17 woman decide what to do with what is inside her 18 body. That is your position? 19 MR. GREENFIELD: Objection, your Honor, 20 asked and answered. 21 THE COURT: I will allow this 22 clarification question. 23 THE WITNESS: There is another piece that 24 isn't displayed right now that I'm speaking to, 25 because I mistyped that on my personal beliefs.</p>	<p style="text-align: right;">Page 498</p> <p>1 BY MR. PRYOR: 2 Q. It says, I am personally pro choice, is that 3 what you wrote? 4 A. It is, and I corrected it immediately after 5 sending this email. 6 Q. And you corrected it by saying, I am personally 7 pro life, but I believe in women having a choice, 8 true? 9 A. Yes. That I don't believe anyone else has the 10 right to dictate what should happen to another 11 woman. 12 Q. Fair enough. But that is the definition of pro 13 choice, ma'am. That is not pro life. That is pro 14 choice. 15 MR. GREENFIELD: Objection, Your Honor, 16 he's testifying again. 17 THE COURT: Sustained. 18 BY MR. PRYOR: 19 Q. Do you understand that pro choice means exactly 20 what you just said? What you believe, that let a 21 woman -- and I'm not debating you about it -- nut 22 let a woman decide what to do with her body? That 23 is pro choice. People who are pro life say that 24 woman doesn't have that choice. That is not you, 25 you are not pro life, you are pro choice.</p>
<p style="text-align: right;">Page 499</p> <p>1 MR. GREENFIELD: Same objection, 2 THE COURT: Sustained. 3 BY MR. PRYOR: 4 Q. You just told us you thought pro choice means 5 that a women should get to decide what to do with 6 her body. Is that what you believe? 7 MR. GREENFIELD: Objection, your Honor, 8 asked and answered. 9 THE COURT: Sustained. 10 MR. PRYOR: What was the objection? 11 THE COURT: Asked and answered. 12 MR. PRYOR: Well, Your Honor, if I could, 13 she's now tried to backtrack on what she said and so 14 I'm trying to clarify. I'd ask -- 15 THE COURT: I think it was clear. 16 MR. PRYOR: Okay. All right. I will move 17 on. 18 BY MR. PRYOR: 19 Q. Ma'am, attached to that exhibit, is the video 20 that you found disturbing. It is the next page. 21 I'm not going to play the video. I'm going to read 22 the -- what is said before playing the video. 23 It says, This is what you supported during your 24 paid leave with others at the Washington March in 25 DC. You truly are despicable in so many ways. By</p>	<p style="text-align: right;">Page 500</p> <p>1 the way, the recall is going to happen, and you are 2 limited in the days you will be living off of all of 3 the Southwest Airlines flight attendants. Can't 4 wait to see you back online. 5 Isn't she, in fact, exercising her union right 6 to object to the union and to tell you she thinks 7 you are doing something awful and that you -- she 8 can't wait to see you, Quit living off Southwest 9 Airlines and going back on line, and that is what 10 you are calling a threat? 11 MR. GREENFIELD: Objection, Your Honor, 12 compound question. 13 THE COURT: I will allow it. 14 THE WITNESS: It is not how I took those 15 messages. 16 BY MR. PRYOR: 17 Q. I'm asking you if I said anything that is 18 incorrect? 19 A. Yes. 20 Q. What did I say incorrect? 21 A. I did not believe that the way that she sent 22 those, what she sent, the comments she sent, I did 23 not believe that was her exercising union protected 24 speech, and simply saying that I -- that she was 25 ready for me to be back on line.</p>

<p style="text-align: right;">Page 501</p> <p>1 Q. Ma'am, is this the video you watched two or 2 three seconds of? Or was it the other one? 3 MR. GREENFIELD: Objection, your Honor, 4 mischaracterizes the testimony, previous testimony. 5 THE COURT: I think it was a question. 6 I'm fine with your question and her answer, if she 7 has an answer to your question. 8 BY MR. PRYOR: 9 Q. Go ahead, ma'am. 10 A. Yes. 11 Q. This is the video? 12 A. I believe so. 13 Q. I'm sorry? 14 A. Yes, I believe so. 15 Q. Okay. And it is the effectiveness -- I 16 understand it is disturbing. Bad things are 17 disturbing. 18 It is the effectiveness of the video that is 19 upsetting. True? 20 A. No. 21 Q. So it is not effective. That is not what is 22 offensive. What is offensive? 23 A. That is not what I said. 24 Q. You just said no, so then the other side of 25 that has got to be that it is not offensive.</p>	<p style="text-align: right;">Page 502</p> <p>1 It is upsetting because it is effective, true? 2 A. It is disturbing. 3 Q. Okay. It is disturbing because it is 4 effective. 5 A. No one should be sent that. 6 Q. So you feel that way. And some people might 7 feel no one should take my money and support 8 something like that. That is equally upsetting to 9 someone else. 10 And to speak to power, to speak to her 11 president of her union to get that message across, 12 is no different than what you are saying. 13 MR. GREENFIELD: Objection, your Honor, 14 he's testifying, he's talking about what some people 15 may think. 16 THE COURT: I will sustain that. You can 17 rephrase it. 18 BY MR. PRYOR: 19 Q. Let me go back to my question. And I will 20 still wait for an answer. 21 This video was disturbing to you, because it 22 was effective? 23 MR. GREENFIELD: Objection, your Honor, 24 asked and answered. He's being argumentative. 25 MR. PRYOR: She's not answered.</p>
<p style="text-align: right;">Page 503</p> <p>1 THE COURT: There is no answer yet. 2 MR. PRYOR: I'm sorry, Your Honor? 3 THE COURT: There is no answer yet. I 4 will let her answer if she can. 5 THE WITNESS: If "being effective" means 6 upsetting me terribly, of being subjected to 7 horrific images, being called a murderer, if that is 8 what your definition of effective is, yes, it was 9 effective for that. 10 BY MR. PRYOR: 11 Q. Let's test that. First of all, she didn't call 12 a murder. She said you were supporting murder. And 13 it is not even in this message, but okay. 14 She said you supported murder whenever you give 15 money to an organization that does something like 16 this. That is what she said. She didn't call you a 17 murderer. 18 MR. GREENFIELD: Objection, your Honor, 19 he's testifying about what someone -- 20 MR. PRYOR: She testified. I'm testing 21 her testimony. 22 THE COURT: I will allow this question. 23 THE WITNESS: Our union has not supported 24 abortion or Planned Parenthood by giving money or 25 union dues.</p>	<p style="text-align: right;">Page 504</p> <p>1 BY MR. PRYOR: 2 Q. Did your union support the march of Planned 3 Parenthood? 4 MR. McKEEBY: Objection, that 5 mischaracterizes. It is not the march of Planned 6 Parenthood. 7 MR. PRYOR: I will rephrase. 8 THE COURT: Sustained. 9 BY MR. PRYOR: 10 Q. Did you support -- did the union support the 11 Women's March that was sponsored -- the premier 12 sponsor being Planned Parenthood? 13 MR. GREENFIELD: Objection, your Honor, 14 again, mischaracterizes testimony that -- 15 THE COURT: I will allow it based on my 16 recollection of the testimony. 17 THE WITNESS: Yes. 18 BY MR. PRYOR: 19 Q. If you thought someone was doing something that 20 was murder, would you try and stop it? 21 Is that a hard question? 22 A. I didn't say that a woman who makes a choice to 23 have an abortion is murder. 24 Q. Listen to me question. We are not even talking 25 about abortion right now.</p>

<p style="text-align: right;">Page 505</p> <p>1 If you think someone is doing something that is</p> <p>2 murder, would you do something to try and stop it?</p> <p>3 MR. GREENFIELD: Objection, your Honor,</p> <p>4 relevance.</p> <p>5 MR. PRYOR: Seems clearly relevant.</p> <p>6 THE COURT: I will sustain it.</p> <p>7 BY MR. PRYOR:</p> <p>8 Q. If you thought someone was engaging in conduct</p> <p>9 that you could have -- first of all let's try this.</p> <p>10 Someone is using your money to murder someone. You</p> <p>11 got the hypothetical?</p> <p>12 A. Yes.</p> <p>13 Q. Would you say, Quit using my money to murder</p> <p>14 someone? Would you do that?</p> <p>15 MR. GREENFIELD: Objection, your Honor,</p> <p>16 relevance.</p> <p>17 MR. PRYOR: Seems on all fours.</p> <p>18 THE COURT: I will sustain that objection.</p> <p>19 MR. PRYOR: I'm sorry, did you sustain?</p> <p>20 THE COURT: I did.</p> <p>21 MR. PRYOR: Okay. All right. Your Honor,</p> <p>22 I don't want to quibble with your ruling, but I'm</p> <p>23 going try again. But if I -- if it's the whole area</p> <p>24 --</p> <p>25 THE COURT: Do you need a sidebar?</p>	<p style="text-align: right;">Page 506</p> <p>1 MR. PRYOR: I'm sorry?</p> <p>2 THE COURT: Do we need a sidebar?</p> <p>3 MR. PRYOR: Yes, your Honor.</p> <p>4 (Thereupon, the following proceedings were</p> <p>5 had at sidebar:)</p> <p>6 MR. PRYOR: I am so trying to be good</p> <p>7 because I realize --</p> <p>8 THE COURT: I get it. My concern here is,</p> <p>9 it is speculation as to her, not at all as to</p> <p>10 Carter. When Carter takes the stand, these are all</p> <p>11 fair game, right? But asking any other witness,</p> <p>12 Well, if you were in her shoes with her view of</p> <p>13 life, wouldn't you believe it is protecting --</p> <p>14 MR. PRYOR: This is not my question. My</p> <p>15 question is her. I'm not wanting her to put herself</p> <p>16 in Carter shoes. I'm wanting her to put her in her</p> <p>17 shoes. If you were in a situation where you thought</p> <p>18 someone was doing something, wouldn't you take</p> <p>19 drastic action? That's my point.</p> <p>20 THE COURT: I will allow you to ask it if</p> <p>21 you clean up the phraseology.</p> <p>22 MR. PRYOR: I'm going to try. I'm not</p> <p>23 very good at this.</p> <p>24 THE COURT: You can ask her as her, not</p> <p>25 her as Carter. All right?</p>
<p style="text-align: right;">Page 507</p> <p>1 MR. PRYOR: Absolutely. That is what I</p> <p>2 meant.</p> <p>3 THE COURT: Okay.</p> <p>4 (Thereupon, the sidebar was concluded and</p> <p>5 the following proceedings were held in open</p> <p>6 court:)</p> <p>7 THE COURT: All right. I will let you</p> <p>8 reframe that question.</p> <p>9 BY MR. PRYOR:</p> <p>10 Q. Okay. Ms. Stone, let me very clear. I'm</p> <p>11 talking to you about you, okay? Not about</p> <p>12 Ms. Carter, not about anyone else. You, the</p> <p>13 president of the Local 556 at the time.</p> <p>14 MR. GREENFIELD: Objection, your Honor.</p> <p>15 Her or her as the -- may we sidebar on that?</p> <p>16 THE COURT: If you want to.</p> <p>17 (Thereupon, the following proceedings were</p> <p>18 had at sidebar:)</p> <p>19 MR. PRYOR: I think I get both, but okay.</p> <p>20 MR. GREENFIELD: That is exactly what we</p> <p>21 are talking about. Now you are talking about two</p> <p>22 separate -- her as an agent of the union, that</p> <p>23 combine the union, or her personally?</p> <p>24 MR. PRYOR: Yeah, I want both.</p> <p>25 THE COURT: Okay.</p>	<p style="text-align: right;">Page 508</p> <p>1 MR. PRYOR: Of course.</p> <p>2 MR. GREENFIELD: Then separate them out.</p> <p>3 THE COURT: As long as you ask the</p> <p>4 separate questions, then it is fine.</p> <p>5 MR. PRYOR: Okay. I thought I said as her</p> <p>6 profession. Okay. All right.</p> <p>7 (Thereupon, the sidebar was concluded and</p> <p>8 the following proceedings were held in open</p> <p>9 court:)</p> <p>10 THE COURT: Okay. You can proceed.</p> <p>11 You may want to reask it, because I think</p> <p>12 we all forgot.</p> <p>13 MR. PRYOR: Yes.</p> <p>14 BY MR. PRYOR:</p> <p>15 Q. Ma'am, if, as president of the Local 556 you</p> <p>16 believe -- I'm talking about you now -- if you</p> <p>17 believe -- and not in the situation of abortion, we</p> <p>18 don't have to put it in that context -- if you</p> <p>19 believe your union funds were being utilized for</p> <p>20 murder, would you do something? Would you try and</p> <p>21 take strong action to stop it?</p> <p>22 A. Yes.</p> <p>23 Q. And would you personally, if you thought your</p> <p>24 money was being used to perpetrate murder, would you</p> <p>25 say, Quit spending my money that way, and do it in</p>

<p style="text-align: right;">Page 509</p> <p>1 as forceful and an effective manner -- legal, of 2 course -- that you can? Would you do that? 3 MR. GREENFIELD: Objection, compound 4 question. 5 THE COURT: Can you split it up? 6 MR. PRYOR: I'm sorry, it was -- 7 THE COURT: Compound. Can you split it 8 up? 9 MR. PRYOR: Okay. I will break it down. 10 BY MR. PRYOR: 11 Q. So would you, if you thought your money was 12 being used to perpetrate murder -- you got the 13 example so far? 14 A. Yes. 15 Q. Would you, first of all, say, Stop spending my 16 money on murder? Would you do that? 17 A. Yes. 18 Q. And would you, in the most effective means that 19 you could within the law, try and convince them to 20 stop doing that? 21 A. Not if it is the way she did it. 22 Q. Well, I didn't put it in the context of 23 abortion. I understand what you want to say about 24 abortion. 25 But let's say that it is -- union money is</p>	<p style="text-align: right;">Page 510</p> <p>1 going to Bangladesh and -- at a shoe factory and 2 little children are making shoes and they are -- 3 several die every week. 4 Would you send a video and say, Look at these 5 conditions, look at this poor dying child? Would 6 you do everything you could to save that child? 7 MR. GREENFIELD: Objection, relevance to 8 children in Bangladesh, Your Honor. 9 MR. PRYOR: She wanted an example, I gave 10 her one. 11 THE COURT: I will allow it. 12 BY MR. PRYOR 13 Q. I can give you more. 14 A. I don't know what I would do in that situation. 15 Q. You would not do everything you could to save 16 that child in Bangladesh, would you? You wouldn't 17 show a video to someone to stop them from murdering 18 that child because it is too offensive, right? 19 A. I wouldn't harass or threaten another person. 20 Q. I'm asking about my example, ma'am. In my 21 example, you are not going to use a video to save 22 that child because it offends your sensibilities 23 more that murder does, correct? 24 A. I don't understand -- I don't understand the 25 question, that -- that last part of comparing that</p>
<p style="text-align: right;">Page 511</p> <p>1 it offends me more than murder. 2 Q. Since this the video you watched -- and it is 3 graphic. And by the way, when this was posted on 4 her Facebook page, she put "graphic video" and so 5 you could decide to use it or not. 6 With Facebook Messenger, you already have to 7 decide. It doesn't just start playing, but you say 8 you inadvertently clicked on it -- 9 MR. McKEEBY: Objection. 10 Q. -- but that certainly was your inadvertence not 11 her intention. She sent you something -- 12 THE COURT: Hold on. We have got an 13 objection. 14 MR. McKEEBY: I think I might have 15 several, but the one I got to up to say was 16 irrelevant -- excuse me -- hearsay. He's testifying 17 about documents that are not in evidence. 18 THE COURT: Sustained. 19 Start a new question. 20 MR. PRYOR: Okay. I can't even remember 21 the -- the -- okay. 22 BY MR. PRYOR: 23 Q. The video that you received, you clicked on it 24 inadvertently, true? 25 A. Yes.</p>	<p style="text-align: right;">Page 512</p> <p>1 Q. The video that was sent to you was sent to you 2 as a private message to Audrey Stone TWU, true? 3 A. It was sent to me as a private message on 4 Facebook via messenger. I have already said I don't 5 recall if it was Audrey Stone or Audrey Stone TWU at 6 that time. 7 Q. It doesn't matter which to you, correct? In 8 terms of the actions you took? 9 THE COURT: Counsel, can I ask, can we 10 take our last break for the day right quick, and 11 then we will come back? 12 MR. PRYOR: Yes. Believe it or not, I'm 13 going to wrap up, I hope. 14 THE COURT: So if you have got 15 five minutes or less -- 16 MR. PRYOR: Oh, I can't commit to that. 17 THE COURT: Okay. That's fine. Then 18 let's take our last break. Same three instructions: 19 Only talk to your fellow jurors, just not about the 20 case; don't talk to anyone else other than fellow 21 jurors or courthouse personnel; and don't do any 22 research about the case. 23 We'll see you in five minutes at 4:15. 24 All rise. 25 (The jurors exited the courtroom.)</p>

<p style="text-align: right;">Page 513</p> <p>1 THE COURT: And I have one question for 2 folks before witness is out of the room -- not about 3 the witness, just about other witnesses. 4 So you can go ahead and leave, Ms. Stone. 5 And then we will take our break right 6 quick. 7 (The witness exited the courtroom.) 8 THE COURT: So my question for y'all is on 9 depo designations and order of witnesses in the 10 future. I know we have gotten the rulings back on 11 objections to depo designations from Talburt and 12 Parker. We are still working on Conlan, Sims, 13 Rutherford, Klenurne, Burdine. 14 What I'm asking is, triaging. Who do you 15 think is next up? I know Conlan was on a list for 16 today. Obviously, we probably won't get to Conlan. 17 But who should we work on in order of prioritization 18 as far as getting written rulings back to y'all on 19 objections within your page line designations? 20 MR. PRYOR: Your Honor, you are asking 21 us -- you have currently have done Talburt, and he 22 will be our next witness. 23 THE COURT: Okay. 24 MR. PRYOR: We don't have Mr. Nevarez. 25 After that we anticipate Mr. Parrott, a live</p>	<p style="text-align: right;">Page 514</p> <p>1 witness. Then we will read from the deposition of 2 Ms. Parker. 3 THE COURT: Uh-huh. Which we have on 4 file. 5 MR. PRYOR: Okay. I need to consult with 6 counsel. I think it is important the time we are 7 spending with this witness for our case. And I'm -- 8 but I'm also mindful of our time limit. And I 9 cannot tell the Court that we will not cut Conlan. 10 But if we were going to call him, he would be our 11 next witness. 12 THE COURT: Okay. So I have already 13 internally prioritized Conlan. I'm just trying to 14 make sure Conlan is the right person to do next. 15 But have you got two or three others for me to 16 prioritize after Conlan? 17 MR. PRYOR: I anticipate at least four 18 live witnesses after -- or five, even -- after 19 Conlan before you would get to Kleburne and Burdine. 20 And I think those are relatively short deposition 21 excerpts, and those are the only ones left. 22 THE COURT: Okay. So Sims and Rutherford, 23 we should not turn to? 24 MR. PRYOR: Sims -- oh, your Honor, we 25 probably -- we designated Sims, but we have the</p>
<p style="text-align: right;">Page 515</p> <p>1 opportunity to call him live. 2 THE COURT: Okay. Got it. So Sims is 3 live. And then Rutherford, are we thinking 4 Rutherford is last on priority or Rutherford will be 5 live? 6 MR. PRYOR: I'm sorry? They are saying 7 yes. Kleburne and Burdine are the last two. 8 Okay. And then Rutherford, what is the 9 Rutherford status, live or not priority? 10 MR. GILLIAM: No, it would be by 11 deposition, if we get to her. 12 THE COURT: Okay. So we will put 13 Rutherford as the fourth depo to get to. So I have 14 got Conlan, Kleburne, Burdine and Rutherford as the 15 depo designation objections to get to my 16 prioritization order. Okay. Thank you for helping 17 clarify that for me. 18 And then we can talk about Nevarez at the 19 end of the day. Sound good? 20 MR. PRYOR: Sure. 21 THE COURT: Okay. Now, let's take our 22 break, and we will see y'all at 4:15. 23 MR. GREENFIELD: Your Honor, may we have a 24 brief sidebar before we break? 25 THE COURT: Do we need a sidebar? I mean,</p>	<p style="text-align: right;">Page 516</p> <p>1 everyone is out. 2 MR. PRYOR: What are we doing? 3 MR. GREENFIELD: I would just prefer not 4 to be in front of the full gallery, but -- 5 THE COURT: Okay. That's fine. 6 (Thereupon, the following proceedings were 7 had at sidebar:) 8 MR. GREENFIELD: I don't want to object 9 the flow of counsel, but -- and I have tried to be 10 respectful, but his consistent use of sidebars and 11 testifying during his examinations, I find to be 12 abusive of proper cross-examination rules. And I am 13 going to feel compelled to object more if he 14 continues to do it. I have tried to give him 15 leeway, but I feel like it is getting worse and 16 worse, your Honor. 17 MR. PRYOR: Let me say, this is obviously 18 a pivotal witness. And it is a witness with a bent, 19 and I'm entitled to challenge this witness and I 20 think we have. I don't think I have crossed the 21 line. I do know that I have had several long 22 questions that the Court has sustained objections 23 on. I can think of two or three. But I'm not sure 24 what the point is being made here. If I ask an 25 objection question, I expect an objection.</p>

<p style="text-align: right;">Page 517</p> <p>1 THE COURT: I will say this, there is</p> <p>2 always a fine line because you have to lead an</p> <p>3 adverse witness, but you also cannot testify.</p> <p>4 This also has the interesting implications</p> <p>5 of being a key witness that is also going first.</p> <p>6 All right? And so I'm trying to draw the line where</p> <p>7 I draw it. Anytime you have had a three-line lead</p> <p>8 up --</p> <p>9 MR. PRYOR: Fair enough.</p> <p>10 THE COURT: -- before you ask the question</p> <p>11 mark, then, holy cow, I'm granting that, right?</p> <p>12 Does that make sense?</p> <p>13 MR. PRYOR: It does.</p> <p>14 I just try to draw the line there.</p> <p>15 MR. PRYOR: And, you know, part of it is</p> <p>16 the heat of the battle. And I do recognize that the</p> <p>17 questions need to -- I thought the questions, when I</p> <p>18 summarized testimony and then got her to answer,</p> <p>19 were fair.</p> <p>20 And I think you allowed a couple of those.</p> <p>21 But then certainly, there are ones that -- I get it.</p> <p>22 And I appreciate that the Court sustained those.</p> <p>23 And I'm not intending to violate a rule.</p> <p>24 THE COURT: I'm not moving the line. I'm</p> <p>25 not trying to get on to you for objecting. And the</p>	<p style="text-align: right;">Page 518</p> <p>1 ones I think crossed the line, I sustained the</p> <p>2 objection on.</p> <p>3 MR. PRYOR: Sure.</p> <p>4 THE COURT: So I think we are going to</p> <p>5 keep plotting the course where we are plotting it</p> <p>6 and the chips fall where they fall.</p> <p>7 MR. PRYOR: Okay.</p> <p>8 THE COURT: We will see you back here.</p> <p>9 MR. GREENFIELD: That is why I wanted to</p> <p>10 do it.</p> <p>11 THE COURT: I appreciate that.</p> <p>12 MR. PRYOR: I just say this for purposes</p> <p>13 of warning, I'm going to play the video next.</p> <p>14 THE COURT: Right into the break.</p> <p>15 MR. GREENFIELD: Does the witness need to</p> <p>16 watch this again?</p> <p>17 MR. PRYOR: She doesn't have to watch it.</p> <p>18 MR. McKEEBY: I'm going to play it for</p> <p>19 her, if he doesn't.</p> <p>20 MR. PRYOR: So, your Honor, she's</p> <p>21 testified that she --</p> <p>22 THE COURT: I can't make her open her</p> <p>23 eyes, right? But if she looks away, then, you know,</p> <p>24 I can't -- and the same thing with the jury, I can't</p> <p>25 force them to keep their eyes on it.</p>
<p style="text-align: right;">Page 519</p> <p>1 MR. PRYOR: I'm not -- I think that, given</p> <p>2 the nature of this case, I have to do this. She's</p> <p>3 testified she watched about three seconds of it.</p> <p>4 I'm going to play three seconds.</p> <p>5 MR. GREENFIELD: That is also not her</p> <p>6 testimony.</p> <p>7 MR. PRYOR: I believe it is.</p> <p>8 THE COURT: A few seconds.</p> <p>9 MR. PRYOR: She said as soon as she</p> <p>10 realized what it was, she stopped it. That's</p> <p>11 probably less than three -- three seconds is much</p> <p>12 longer than that. I gave her the benefit. I think</p> <p>13 she agreed.</p> <p>14 THE COURT: I understand.</p> <p>15 MR. PRYOR: Okay. I'm just letting</p> <p>16 everyone know.</p> <p>17 THE COURT: Question, do you want me to</p> <p>18 forecast for the jury when we come back in? Or do</p> <p>19 you want to the one --</p> <p>20 MR. PRYOR: Yes. No, I think we -- we</p> <p>21 should. I will do it in a preamble to my question,</p> <p>22 but the Court doing it is fine.</p> <p>23 THE COURT: Well, I'm going to tell the</p> <p>24 jury, look, this is a question I asked, there are</p> <p>25 going to be pictures, there are going to be videos.</p>	<p style="text-align: right;">Page 520</p> <p>1 The video that you see cued up is --</p> <p>2 MR. PRYOR: Will be a short clip.</p> <p>3 THE COURT: -- before the day is over.</p> <p>4 MR. PRYOR: It will just be the clip to</p> <p>5 the extent she watched it.</p> <p>6 THE COURT: I'll do it. That is my job.</p> <p>7 Thank you.</p> <p>8 (Recess.)</p> <p>9 MR. GREENFIELD: He's intending to -- what</p> <p>10 I heard is, to play what he thinks she watched, a</p> <p>11 portion. If we are going to play the video, I think</p> <p>12 we need to play the whole video. We don't know how</p> <p>13 much she watched or not. She couldn't even recall</p> <p>14 how much it was. So if we are going to play, lets</p> <p>15 play the whole video.</p> <p>16 MR. PRYOR: That is absolutely wrong. And</p> <p>17 I, first of all, can play whatever I want. And</p> <p>18 second of all, she said seconds. The video is over</p> <p>19 three minutes long.</p> <p>20 THE COURT: I think you're entitled to --</p> <p>21 MR. PRYOR: I understand what he's trying</p> <p>22 to do.</p> <p>23 THE COURT: -- play all of it if you want</p> <p>24 to.</p> <p>25 MR. PRYOR: Okay. If he wants to do it in</p>

<p style="text-align: right;">Page 521</p> <p>1 his case, we will be sure and talk about that.</p> <p>2 THE COURT: Appreciate that.</p> <p>3 MR. GREENFIELD: That's fine.</p> <p>4 THE COURT: Thank you.</p> <p>5 (Recess.)</p> <p>6 THE COURT SECURITY OFFICER: All rise.</p> <p>7 THE COURT: Okay. Anything before we get</p> <p>8 the jury? I will give that disclaimer when they</p> <p>9 come in. So you can bring them in.</p> <p>10 (The jurors entered the courtroom.)</p> <p>11 THE COURT: All righty. Thank you. You</p> <p>12 can be seated.</p> <p>13 And, Mr. Pryor, you can approach the</p> <p>14 podium.</p> <p>15 While you do, I will remind the jury that</p> <p>16 during jury selection yesterday, we talked about</p> <p>17 this case can touch on sensitive topics like</p> <p>18 abortion, that there are going to be graphic images,</p> <p>19 videos. Y'all saw the Facebook message with the</p> <p>20 video queued up.</p> <p>21 I understand from Mr. Pryor we are going</p> <p>22 to play at least a few opening seconds of that</p> <p>23 video. So I am just warning you of that in advance.</p> <p>24 It's part of the evidence. The lawyers are entitled</p> <p>25 to put it on, and so I'm letting them.</p>	<p style="text-align: right;">Page 522</p> <p>1 So, Mr. Pryor, with that, you can continue</p> <p>2 your questioning.</p> <p>3 MR. PRYOR: And just a couple of preamble</p> <p>4 questions to that.</p> <p>5 BY MR. PRYOR:</p> <p>6 Q. Ma'am, you previously told us you accidentally</p> <p>7 hit play, and the moment you realized that it was</p> <p>8 something you considered so offensive, you stopped</p> <p>9 watching it, and you estimated that to be a few</p> <p>10 seconds. Is that fair?</p> <p>11 A. I thought I said I didn't recall how long, how</p> <p>12 many seconds I watched it, but that I didn't finish</p> <p>13 watching the video.</p> <p>14 Q. I understood you to say you realized</p> <p>15 immediately it was offensive and stopped watching.</p> <p>16 Is that fair?</p> <p>17 A. Quickly, yes.</p> <p>18 Q. Okay. I'm going to play three seconds of the</p> <p>19 video that you watched. Three seconds is (snapping</p> <p>20 fingers). That is a long time if you are looking at</p> <p>21 something and immediately realize it's offensive and</p> <p>22 stop watching, true?</p> <p>23 A. I didn't say three seconds.</p> <p>24 I don't recall. I've testified repeatedly, I</p> <p>25 don't know how long I watched it. It was long</p>
<p style="text-align: right;">Page 523</p> <p>1 enough to become upset, stopped watching it, and</p> <p>2 have to go to the women's restroom to pull myself</p> <p>3 together before I could board the flight I was</p> <p>4 supposed to be on.</p> <p>5 Q. One of the things I wrote down, you told us you</p> <p>6 immediately realized that it was offensive. What</p> <p>7 does "immediately" mean?</p> <p>8 Are you trying to make us watch more of the</p> <p>9 video than you watched, ma'am?</p> <p>10 A. I am not. Southwest and the Union have argued</p> <p>11 over the definition of "immediately" in the past,</p> <p>12 and that is what is going through my mind.</p> <p>13 Q. I'm just asking you what "immediately" meant to</p> <p>14 you sitting in the airport, you looked at it, and</p> <p>15 immediately realized it was offensive and stopped</p> <p>16 watching.</p> <p>17 MR. GREENFIELD: Objection, your Honor,</p> <p>18 asked and answered.</p> <p>19 THE COURT: Sustained.</p> <p>20 BY MR. PRYOR:</p> <p>21 Q. Is three seconds an unfair estimate?</p> <p>22 A. I don't know how many seconds it was playing.</p> <p>23 Q. All right. Ma'am, you've seen this video. And</p> <p>24 I'm not asking -- I don't need you to watch it to</p> <p>25 authenticate it if you do not want to watch it.</p>	<p style="text-align: right;">Page 524</p> <p>1 It's part of the evidence in this case, and so</p> <p>2 I'm going to play three seconds of this video.</p> <p>3 (Thereupon, the video clip was played.)</p> <p>4 BY MR. PRYOR:</p> <p>5 Q. Now, you were also sent a -- I'm looking for</p> <p>6 the -- you know, when you sent your complaint, you</p> <p>7 didn't include the Facebook message about the hats.</p> <p>8 Did you?</p> <p>9 A. I don't -- I don't think originally. I think</p> <p>10 it was just the -- the still screen shots of the</p> <p>11 video.</p> <p>12 Q. Okay. So your email doesn't mention the</p> <p>13 pictures of the women in the hats, and it is not</p> <p>14 attached to Exhibit 66.</p> <p>15 Do you know whether or not, at the time you</p> <p>16 made your complaint, you even included the message</p> <p>17 about the hats?</p> <p>18 A. In the original complaint, again, I don't</p> <p>19 believe so.</p> <p>20 Q. Okay.</p> <p>21 A. It was provided later.</p> <p>22 Q. You don't think you included that, correct?</p> <p>23 A. Correct.</p> <p>24 Q. Subsequently, Southwest Airlines asked you to</p> <p>25 send more information, didn't they?</p>

<p style="text-align: right;">Page 525</p> <p>1 A. Yes. They asked me to send anything that she 2 had sent. 3 Q. At that point, you included the message with 4 the pictures of the hats, true? 5 A. I believe so. 6 Q. By the way, when Southwest Airlines asked you 7 to go back and find messages from Ms. Carter, did 8 they tell you to only go back 18 months? 9 A. I don't recall a specific time frame. I think 10 they requested that I send any communication that I 11 had received via Facebook to the best of my ability. 12 Q. Did you only send Facebook communications? 13 A. I don't recall if, at that point, anybody asked 14 if there had been any communication through union 15 channels. I know at some point I was asked that. I 16 don't recall if it was at the initial -- in that 17 first, that first conversation. 18 Q. Did you object to sending communications from 19 Ms. Carter that were union activity? 20 MR. GREENFIELD: Objection, your Honor, 21 vague. 22 THE COURT: Sustained. 23 Can you reframe it? 24 BY MR. PRYOR: 25 Q. Did you review the communication -- first of</p>	<p style="text-align: right;">Page 526</p> <p>1 all, when Ms. Carter sent you communications, did 2 you even read them? 3 A. Not all of them, no. 4 Q. Which ones did you read? 5 A. I couldn't even tell you which ones I read, 6 there were so many. 7 Q. And so at some point, did you stop reading 8 them? 9 A. Yes. 10 Q. And of the ones that you read, she was 11 complaining about things that you or the union were 12 doing, correct? 13 A. Not always. 14 MR. GREENFIELD: Vague, lacks specificity. 15 THE COURT: I will allow it. 16 BY MR. PRYOR: 17 Q. You are going to tell us that we are going to 18 see an email or a Facebook communication from her 19 where she's not talking about a complaint about the 20 union, true? 21 A. To my recollection, she sent things quoting -- 22 quoting someone, like somebody's, like, hierarchy 23 levels. There were memes, there were pictures. 24 Some of the stuff was campaign related. Some if it 25 was complaining about the union. It was a variety</p>
<p style="text-align: right;">Page 527</p> <p>1 of things. 2 Q. We will go through them, and you can point to 3 the ones that don't relate to her complaints about 4 the union, okay? Because there are going to be a 5 lot, right, from what you just swore to. 6 A. I didn't say there were a lot. I said there 7 were a lot of messages. 8 Q. I must have misunderstood. 9 Let's look at -- I think it's Exhibit 15. 10 MR. PRYOR: I move for its admission. 11 THE COURT: This is 15? 12 BY MR. PRYOR: 13 Q. So this is an email -- 14 THE COURT: Hold on. 15 I've got Union prior objections to 15. I 16 can rule on those unless you want a sidebar. 17 MR. PRYOR: What is the objection? 18 THE COURT: Hearsay. 19 MR. GREENFIELD: I think that falls under 20 a previous ruling you found on that, your Honor, so 21 I don't need a sidebar. 22 THE COURT: Okay. So I will overrule 23 those objections. 15 is in evidence and we can 24 publish. 25</p>	<p style="text-align: right;">Page 528</p> <p>1 (The referred-to document was admitted 2 into evidence as Plaintiff's Exhibit 15.) 3 BY MR. PRYOR: 4 Q. So Exhibit 15 is an email from you on 5 February 25th, 2017. 6 By the way, let's back up for a minute. 7 On February 22nd, the day that you made your 8 complaint, it's your testimony you didn't know 9 anything about other complaints being made about 10 other union members by the union to Southwest 11 Airlines? 12 A. At that time, no. 13 Q. At that time? 14 A. No. I don't remember other complaints. 15 Q. You don't remember. 16 When do you remember becoming aware of it? 17 A. I became aware of things if I heard chatter in 18 the grievance office, if someone brought forward a 19 question to me. 20 Q. Chatter. How about emails? 21 A. Sometimes it was emails from people. 22 Q. We are going to look at some documents, ma'am. 23 I'm asking you now, do you remember that in 24 February of 2017, in the time period in which you 25 made your complaint against Ms. Carter, that your</p>

<p style="text-align: right;">Page 529</p> <p>1 union cohorts were making complaints against recall 2 petitioners including Ms. Carter? 3 A. I don't remember. 4 MR. GREENFIELD: Objection, your Honor. 5 He's testifying. Lack of foundation. 6 THE COURT: I will sustain. 7 BY MR. PRYOR: 8 Q. Are you saying at some point you became aware 9 of it? 10 MR. GREENFIELD: Objection, your Honor, 11 same. 12 THE COURT: I will allow it. 13 THE WITNESS: There were numerous time 14 periods where social media activity was high and 15 there were a lot of investigations going on. I 16 don't know about any specific investigations that 17 you are -- I don't know what you are asking about. 18 BY MR. PRYOR: 19 Q. As union president, if one of your core team 20 members gathered information on the Internet about 21 half a dozen or more union members that were part of 22 the recall petition against your administration, 23 gathered all that up and reported them to American 24 Airlines for social media violations, you are 25 telling us you are not aware of that at any time</p>	<p style="text-align: right;">Page 530</p> <p>1 until right now? 2 MR. GREENFIELD: Objection, your Honor. 3 Lack of foundation. Aware of it until right now? 4 There's been no evidence. 5 THE COURT: I will allow it. 6 MR. McKEEBY: Can they at least get the 7 right airline? For Southwest. 8 MR. PRYOR: Did I say American Air? 9 THE COURT: Old habits. 10 MR. PRYOR: I represented American 11 Airlines for about 10 years in another life. And I 12 apologize. I apologize to Southwest or American, 13 I'm not sure who I'm offending, and I greatly 14 apologize. 15 BY MR. PRYOR: 16 Q. Let me ask the question again. 17 Are you telling us you never became aware that 18 in February of 2017, that your core team members 19 were reporting recall petitioners to Southwest 20 Airlines for violations of social media policy after 21 having scoured the Internet looking for violations? 22 MR. GREENFIELD: Objection, your Honor, 23 compound. 24 BY MR. PRYOR: 25 Q. Did you ever become aware of that?</p>
<p style="text-align: right;">Page 531</p> <p>1 THE COURT: Objection? 2 MR. GREENFIELD: Compound, your Honor. 3 THE COURT: I will allow that. 4 You can answer. 5 THE WITNESS: There were flight attendants 6 that reported things to Southwest Airlines that I 7 did not know about that they didn't talk to me about 8 in advance that I would eventually become aware of 9 through a variety of means. 10 I cannot right now recall specifics about 11 other people reporting flight attendants at this 12 exact same time. 13 BY MR. PRYOR: 14 Q. Is that your way of saying you don't remember? 15 A. Correct. I don't -- I don't recall every 16 social media case and when it happened, nor was I 17 dialed in. 18 Q. I'm talking about the people that were opposing 19 you, trying to recall you, that your core team 20 members gathered information against them and 21 reported them to Southwest Airlines. 22 I'm not talking about all types of different -- 23 I'm talking about this specific instance. And you 24 wouldn't remember the union reporting over half a 25 dozen union members?</p>	<p style="text-align: right;">Page 532</p> <p>1 MR. GREENFIELD: Objection, your Honor, 2 asked and answered. 3 THE COURT: Sustained. 4 BY MR. PRYOR: 5 Q. I take it you don't. 6 MR. GREENFIELD: I renew my objection. 7 THE COURT: I sustained it. 8 MR. PRYOR: Let's look at Exhibit 15. 9 BY MR. PRYOR: 10 Q. And you sent this to Denise Gutierrez at 11 Southwest Airlines along with Suzanne Stephensen, Ed 12 Schneider, and Brett Nevarez, correct? 13 A. Yes. 14 Q. And you say that "These are screen shots of 15 every message Charlene Carter has sent me via 16 Facebook." True? 17 A. Yes. 18 Q. Okay. Let's look at them. 19 The next page. Well, this may work. 20 "Well, Audrey, it looks like you have stepped 21 in dog poo" -- 22 By the way, this is March 4, 2015. 23 You got the time frame? 24 A. Yes. 25 Q. "Well, Audrey, it looks you all have stepped in</p>

<p style="text-align: right;">Page 533</p> <p>1 dog poo big time. Funny how that happens when there 2 is little to no integrity with our leadership in 3 TWU. No one is buying your apology except maybe 4 your hardcore followers." 5 Isn't she talking about the apology that you 6 made regarding the core team members? 7 MR. GREENFIELD: Objection, speculation. 8 BY MR. PRYOR: 9 Q. Is that the context? 10 THE COURT: I will allow her to answer if 11 she has personal knowledge. 12 THE WITNESS: I'm assuming so. 13 BY MR. PRYOR: 14 Q. I'm sorry? 15 A. I said I'm assuming so. 16 Q. Okay. 17 But in any event, you issued an apology for all 18 of the horrible things that were said by your core 19 team members on your secret core team Facebook, and 20 Ms. Carter is calling you on it. She's Facebook 21 messaging you about it and says she's not buying it. 22 That's complaining to her union, that's union 23 activity. 24 Do you agree? 25 A. Yes.</p>	<p style="text-align: right;">Page 534</p> <p>1 Q. Okay. Well, let's keep looking. 2 So it says on the next page -- and you can read 3 any excerpts you want, by the way. 4 The next page is "I have experienced the hate 5 before from a few of your board members and staunch 6 supporters, along with threats that are being 7 brought against me for saying the word 'decertify,' 8 even though Brett, who made that threat, did try and 9 decertify from TWU years ago." 10 I think earlier I said Cuyler Thompson, so it 11 must have been Brett Nevarez. 12 But nonetheless, this is a union member 13 communicating with you again about the hateful words 14 that were used on your core team and is complaining 15 about it and about her personal experience with the 16 union. 17 That's union activity that's protected, in your 18 opinion, true? 19 MR. GREENFIELD: I would like, your Honor, 20 to object to this portion as hearsay without an 21 instruction to the jury that this is not being asked 22 for for the truth of the matter asserted, that 23 these -- 24 THE COURT: If you've got a speaking 25 objection, you can go for it at sidebar if you want</p>
<p style="text-align: right;">Page 535</p> <p>1 to. I think I know what it is. 2 MR. GREENFIELD: I apologize. 3 THE COURT: So I will overrule that 4 objection. You can continue. 5 BY MR. PRYOR: 6 Q. You can answer. 7 A. Yes. 8 Q. Union activity, ma'am? 9 A. Yes. 10 Q. And you believe it is protected union activity, 11 that she's entitled to do that, true? 12 A. This, yes. 13 Q. Okay. Let's go to the next page. 14 It says, "Vote everyone out of office the next 15 election cycle. Pray that happens from a member who 16 still pays dues, just objects to paying for the TWU 17 liberal political stuff and the sheer disrespect you 18 show to members that do not agree with you." 19 Once again, that's union communication, 20 complaining about her union, and you believe it's 21 protected, true? 22 A. Well, it's inaccurate. She wasn't a member at 23 this point. 24 Q. You can disagree with her, ma'am. I'm not 25 saying you have to agree with a single things she</p>	<p style="text-align: right;">Page 536</p> <p>1 says. I'm saying you agree that it is union 2 activity and she has the right to say it? 3 A. Sure. 4 Q. Sure. But you send it to Southwest Airlines 5 for them to take action against her. You know it is 6 protected, you are the union president, and you send 7 it to Southwest Airlines. Didn't you? 8 MR. GREENFIELD: Objection, your Honor, 9 mischaracterizes. 10 Can I approach? 11 THE COURT: I will sustain that. 12 BY MR. PRYOR: 13 Q. Did you, in fact, intentionally send to 14 Southwest Airlines protected activity of Ms. Carter 15 for them to take action against her? 16 A. No. 17 Q. So you didn't expect them to take action for 18 this, right? 19 A. I sent this to comply with their request that I 20 send messages. 21 Q. You are a union president, ma'am. You can say 22 no to a request that you gather union activity and 23 send it to the management of Southwest Airlines to 24 take action against a union member for engaging in 25 protected union activity. You could have done that,</p>

<p style="text-align: right;">Page 537</p> <p>1 true?</p> <p>2 MR. McKEEBY: Objection --</p> <p>3 THE COURT: Hold on.</p> <p>4 MR. McKEEBY: -- foundation, and it talks</p> <p>5 about the intent of Southwest Airlines, or the</p> <p>6 question does.</p> <p>7 MR. PRYOR: I'm talking about her.</p> <p>8 THE COURT: Hold on.</p> <p>9 I will overrule that. You can answer the</p> <p>10 question.</p> <p>11 THE WITNESS: I could have refused to send</p> <p>12 any additional messages, yes.</p> <p>13 BY MR. PRYOR:</p> <p>14 Q. And if you wanted to protect a union member's</p> <p>15 protected union communications, you would have done</p> <p>16 that, wouldn't you?</p> <p>17 A. I was trying to protect myself from being</p> <p>18 harassed further.</p> <p>19 Q. You were trying to protect yourself by sending</p> <p>20 union-protected activity to Southwest Airlines about</p> <p>21 a union member. That is protecting yourself?</p> <p>22 Violate your union obligations to protect yourself?</p> <p>23 Do you have an answer or can I go on?</p> <p>24 MR. GREENFIELD: Objection, your Honor.</p> <p>25 Assuming facts not in evidence about certain</p>	<p style="text-align: right;">Page 538</p> <p>1 obligations, that's something that should be in the</p> <p>2 province of the jury.</p> <p>3 THE COURT: I will sustain.</p> <p>4 I sustained. New question.</p> <p>5 MR. PRYOR: Okay.</p> <p>6 BY MR. PRYOR:</p> <p>7 Q. Let's look at the next page.</p> <p>8 It says, "Hmm. Didn't you say in your apology</p> <p>9 letter that the group where all of the hate was</p> <p>10 spewed was started by your supporters?"</p> <p>11 Once again, she's talking about union activity</p> <p>12 and complaining about what her union is doing. And</p> <p>13 that is protected union activity, true?</p> <p>14 A. Yes.</p> <p>15 Q. Yes?</p> <p>16 A. Yes.</p> <p>17 Q. And then the next page. "Talking</p> <p>18 disrespectfully about members, but y'all allowed it</p> <p>19 to happen. That sure says a lot about the true</p> <p>20 character of each of you."</p> <p>21 Again, she's complaining about her union,</p> <p>22 right?</p> <p>23 A. Yes.</p> <p>24 Q. I'm sorry, I can't hear you.</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 539</p> <p>1 Q. And the next page says, "I opted out of this</p> <p>2 union. It has been going on a long time. I should</p> <p>3 know, since I have all of the transcripts from</p> <p>4 Melissa Smith's trial that I testified. You are all</p> <p>5 a product of what is wrong with our union."</p> <p>6 Once again she's complaining about her union,</p> <p>7 right?</p> <p>8 A. Yes.</p> <p>9 Q. And, in fact, she's talking about a current</p> <p>10 event. She's complaining about the core team</p> <p>11 publications that came out showing improper activity</p> <p>12 for which you apologized and she's complaining</p> <p>13 about, true?</p> <p>14 A. Yes.</p> <p>15 Q. These didn't come out of the blue. There was</p> <p>16 an event that precipitated it, true?</p> <p>17 A. Yes.</p> <p>18 Q. And when she talks about Melissa Smith, she's</p> <p>19 talking about Melissa Smith that got kicked out of</p> <p>20 office in 2000 by the union after being elected by</p> <p>21 the members, and she's upset about it, true?</p> <p>22 MR. GREENFIELD: Objection, your Honor.</p> <p>23 He's testifying. There's been no evidence</p> <p>24 presented.</p> <p>25 THE COURT: Sustained.</p>	<p style="text-align: right;">Page 540</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. Do you know that that is what she's referring</p> <p>3 to? Is that how you understand the context of what</p> <p>4 she's saying?</p> <p>5 A. Talking about Melissa Smith's trial. Yes, I</p> <p>6 don't know anything about -- I mean, I wasn't even</p> <p>7 working at Southwest at that time.</p> <p>8 Q. It certainly is her complaining to her union</p> <p>9 about a current event, true?</p> <p>10 A. Melissa Smith's trial?</p> <p>11 Q. No, about the context of it. Saying, this is</p> <p>12 why I opted out, because of all of the horrible</p> <p>13 things that you guys are doing.</p> <p>14 And it is in the context of it coming out about</p> <p>15 what all your core team members were saying about</p> <p>16 fellow flight attendants that are union members.</p> <p>17 MR. GREENFIELD: Objection, your Honor.</p> <p>18 He's testifying and lack of foundation. Again,</p> <p>19 about what all her union --</p> <p>20 THE COURT: I will allow this one.</p> <p>21 THE WITNESS: It's what the message</p> <p>22 started out as.</p> <p>23 BY MR. PRYOR:</p> <p>24 Q. Well, it certainly is still talking about union</p> <p>25 activity, true?</p>

<p style="text-align: right;">Page 541</p> <p>1 A. Yes.</p> <p>2 Q. And then the next page. "Corruption at its</p> <p>3 best. You should be proud of yourselves."</p> <p>4 She's got a picture of your core team there.</p> <p>5 That is part of your core team. Oh, there you are,</p> <p>6 Audrey Stone. Oh. That says "Audrey Stone, TWU."</p> <p>7 What is that? What is that?</p> <p>8 A. A Facebook.</p> <p>9 Q. Oh. So you are using -- I thought you didn't</p> <p>10 use Audrey Stone, TWU.</p> <p>11 A. That's not what I said.</p> <p>12 Q. Oh, I thought it was very rare. It turns out</p> <p>13 you used it on the core team, right?</p> <p>14 A. I never said that.</p> <p>15 Q. So you never used it on the core team or you</p> <p>16 did?</p> <p>17 A. I utilized it some on the core team. I never</p> <p>18 said that I didn't use it.</p> <p>19 Q. Okay. So once again, this is a current event,</p> <p>20 complaint about her union from Ms. Carter to the</p> <p>21 president of her union, true?</p> <p>22 A. Yes.</p> <p>23 Q. And, in fact, it was sent to Audrey Stone, TWU,</p> <p>24 right? That is what you had at the time.</p> <p>25 A. Yes. This was right afterwards and I hadn't</p>	<p style="text-align: right;">Page 542</p> <p>1 changed it yet.</p> <p>2 Q. By the way, she was an objector. Frankly, even</p> <p>3 if she wasn't an objector, you could have blocked</p> <p>4 her if you wanted to, right? Get someone to block</p> <p>5 her if you don't know how. But you know you can</p> <p>6 block people.</p> <p>7 A. Yes.</p> <p>8 Q. And you chose not to because she's sending you</p> <p>9 union complaints, and as union president, you</p> <p>10 shouldn't turn a blind eye to that, whether it is</p> <p>11 from an objector or a member, right?</p> <p>12 A. I chose not to block her at that time. It's</p> <p>13 something I regret.</p> <p>14 Q. And then the next page, there is your core team</p> <p>15 member again. She's talking about she's now read a</p> <p>16 lot of these horrible things that were said there,</p> <p>17 and she's upset, and she says, "I see you and your</p> <p>18 board. Such a shame. Moral bankruptcy."</p> <p>19 And then she sends you an article explaining to</p> <p>20 you what morals are, right, in the context of her</p> <p>21 telling you, our union lacks morals. That is her</p> <p>22 exercising her union right, true?</p> <p>23 A. Yes.</p> <p>24 Q. And that goes on for a few pages. And then --</p> <p>25 By the way, then there are some blank pages.</p>
<p style="text-align: right;">Page 543</p> <p>1 Do you know why there are blank pages?</p> <p>2 A. No. It looks like there were photos on the</p> <p>3 left that aren't being loaded or displayed.</p> <p>4 Q. Do you know what those were or are?</p> <p>5 A. No, I don't recall.</p> <p>6 Q. Let's go to the next page that has some writing</p> <p>7 on it.</p> <p>8 Then it says -- it's -- I don't know how to</p> <p>9 tell you what. It's the page after that one.</p> <p>10 It says, "This came from a friend of mine in</p> <p>11 Denver who also had the pleasure of the disrespect</p> <p>12 from a few of this unelected board."</p> <p>13 When she says "unelected board," she's talking</p> <p>14 about your officer team, correct?</p> <p>15 A. I assume so.</p> <p>16 Q. Okay. I understand there are a few other</p> <p>17 unelected boards in the history of your local union.</p> <p>18 But this, in the time frame that we are talking</p> <p>19 about, was referring to you and your board, correct?</p> <p>20 You don't have to assume. You understand that.</p> <p>21 A. Members of my board. It wasn't the whole</p> <p>22 board.</p> <p>23 Q. Now, she's complaining once again about the</p> <p>24 unelected board, okay, and praying that you will be</p> <p>25 voted out. She's talking now about that she hopes</p>	<p style="text-align: right;">Page 544</p> <p>1 you get voted out.</p> <p>2 That is a union activity, she's entitled to</p> <p>3 suppress her opinion, and it's topical, given what</p> <p>4 had just happened. Do you agree?</p> <p>5 A. Yes.</p> <p>6 Q. And you sent it to Southwest Airlines for them</p> <p>7 to take action. That was your intent in sending it?</p> <p>8 A. No. I sent it to Southwest Airlines at their</p> <p>9 request as part of their investigation.</p> <p>10 Q. No, ma'am. Just a moment ago you said, "I sent</p> <p>11 it to protect myself." That's what you said.</p> <p>12 No, no. But now you are telling me, no, I did</p> <p>13 it because I was ordered to. Which is it?</p> <p>14 A. I said earlier it was at their request, and I</p> <p>15 felt like I had been harassed with that last batch</p> <p>16 of things she had sent me, and this was sent at</p> <p>17 their request as part of that.</p> <p>18 Q. Do you feel like you are being harassed today?</p> <p>19 A. This entire process has absolutely made me feel</p> <p>20 like I've been harassed.</p> <p>21 Q. Do you feel like I'm harassing you by</p> <p>22 confronting you with evidence and making you respond</p> <p>23 to it?</p> <p>24 A. Oh, I think you have been very aggressive and</p> <p>25 twisted my words throughout today.</p>

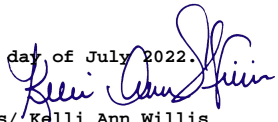
<p style="text-align: right;">Page 545</p> <p>1 Q. Which words? Tell me a word I twisted. You 2 get to rephrase it. Let's go for it. 3 MR. GREENFIELD: Objection, your Honor. 4 THE COURT: Sustained. 5 BY MR. PRYOR: 6 Q. What words have I twisted? 7 MR. GREENFIELD: Objection, your Honor. 8 It's the same question. 9 THE COURT: I will allow this one 10 question. 11 THE WITNESS: One of the exhibits earlier, 12 you were twisting the words to say that Cuyler had 13 threatened her, versus the actual sentence that was 14 in the exhibit. 15 BY MR. PRYOR: 16 Q. Fair enough. 17 It turns out I was wrong. It wasn't your 18 secretary officer that threatened Ms. Carter, it was 19 the vice president, Brett Nevarez, that threatened 20 her. I apologize for my mistake. 21 MR. GREENFIELD: Objection, your Honor. 22 Lack of foundation. That evidence has not been 23 presented at any point during this trial. 24 MR. PRYOR: It is what she just said. She 25 said it should have been Nevarez, not Cuyler.</p>	<p style="text-align: right;">Page 546</p> <p>1 THE COURT: I'll overrule the objection. 2 Ask a new question. 3 BY MR. PRYOR: 4 Q. Let's look at the next page. 5 And she's forwarding you something that someone 6 had sent that's -- she says that she wants to vote 7 you out of office so we can bring back truth, 8 transparency, integrity and unity. 9 And she has included in this string, it's not 10 from her, but someone posted "Fucktard. I voted 11 Brett Nevarez because he respects me." 12 That is a commentary on the "fucktard" language 13 used about flight attendants in the core team, true? 14 A. Yes. 15 Q. And so once again, she's pointing out with a 16 visual the improper activity of her union, in her 17 opinion, true? 18 A. Yes. 19 Q. Let's look at the next page. 20 By the way, I keep looking for -- you told me 21 that none -- I can keep going through all of this. 22 It all relates to union activity, ma'am. 23 A. I never said none. 24 Q. I thought you did. I thought you said there 25 were memes. I thought you said there were things</p>
<p style="text-align: right;">Page 547</p> <p>1 unrelated. 2 In fact, isn't it your testimony that every 3 communication you received from Ms. Carter related 4 to her complaints about the union? 5 A. No, I do not believe some of these things -- 6 Q. Let's keep looking then. So far we have seen 7 topical, timely, complaints about her union. True? 8 A. No. I don't think it's timely. I don't think 9 bringing up a trial, a union event that took place 10 22 years ago is timely. 11 Q. So she's raising it as an example of the 12 continued corruption of her union in regard to 13 something that had just occurred, and she's saying, 14 wow, this is typical. This is -- you guys have done 15 this before. 16 And you are saying that is not topical, to 17 raise that issue? 18 MR. GREENFIELD: Objection, your Honor. 19 He's testifying about what Carter was intending with 20 these messages. 21 THE COURT: Hold on. Hold on. Speaking 22 objections. 23 MR. GREENFIELD: Sorry, your Honor. 24 MR. PRYOR: I'm testing her answer. 25 THE COURT: I will allow this question.</p>	<p style="text-align: right;">Page 548</p> <p>1 THE WITNESS: I didn't say it wasn't 2 topical. I said I didn't think it was timely. 3 BY MR. PRYOR: 4 Q. So let's look at the next page. It says, "This 5 is what radical unions like TWU use to get their 6 way, smart things being used by this unelected 7 board. But people are waking up to the tactics and 8 some day the chickens will come home to roost. 9 Praying to God it comes sooner than later." 10 Once again, she's talking about her complaints 11 about the union, true? 12 A. Yes. 13 Q. And then she says "radical unions," and then 14 she gives you examples from Alinsky as to what the 15 rules for radicals are to further make her point 16 that her radical union is not representing her. 17 Do you see it? 18 A. I see some of it. 19 Q. I can bring you a copy of this exhibit if you 20 want. 21 That is what she's doing, right? 22 I can read it. 23 A. I'm looking at it. 24 Q. Okay. Is that what she's doing? 25 A. Would you repeat the question, please?</p>

<p style="text-align: right;">Page 549</p> <p>1 Q. Yes. She's telling that you what you guys are 2 doing is radicalizing the union, and then she's 3 giving you examples of what radicalization means 4 through the rules that she's going through. 5 It is relating to her complaints about her 6 union, to show that what you are doing is 7 radicalizing the union. 8 You don't have to agree with her, but that is 9 what she is doing. 10 A. I don't. I think that's what she was intending 11 to do. 12 Q. You think what? 13 A. I said I don't agree. I think that is what she 14 was intending to do. 15 Q. Okay. I understand you don't agree with her, 16 but she's complaining to her union about being 17 radicalized and giving examples of what 18 radicalization means, right? 19 A. Yes. 20 Q. All right. Then let's go to the page that 21 says, "My attorney called it blatant discrimination. 22 I wonder who on the EB called in this favor for 23 Brian." 24 You know what this one is about, don't you? 25 A. I think so.</p>	<p style="text-align: right;">Page 550</p> <p>1 Q. You don't? 2 A. I said I think so. 3 Q. Okay. 4 And what happened is Brian Talburt violates 5 social media policy and he doesn't lose his job. 6 And she's saying that is blatant discrimination. 7 Your core team member gets off the hook -- 8 MR. McKEEBY: Objection, your Honor, 9 relevance. 10 THE COURT: Hold on. Sustained. 11 MR. PRYOR: To the complaint being made? 12 Okay. 13 BY MR. PRYOR: 14 Q. What do you understand this to be about? Is it 15 relating to her complaints about the union and union 16 members and how some are treated differently than 17 others, in her opinion? 18 A. That is what she's claiming, yes. 19 Q. Is she allowed to raise that complaint? 20 A. She can, yes. 21 Q. And in fact it's timely, it's talking about an 22 event that just happened, true? 23 A. Yes. 24 Q. So far we have seen timely complaints about the 25 union.</p>
<p style="text-align: right;">Page 551</p> <p>1 Let's look at the next page. 2 She's saying, "Hmm. It looks like there is 3 another group that is not happy with TWU. TWU Local 4 577 is now attempting to decertify. This letter 5 below from Local 577, contract negotiators, they 6 quit." 7 She's pointing out that the transportation 8 workers union that she's complaining about, that 9 other people are complaining too, and she gives you 10 an example. True? 11 A. Yes. 12 Q. It sounds like union activity, doesn't it? 13 A. Yes. 14 Q. So that goes on for a couple of pages. 15 Let's see where the next thing is. 16 Let's look at the page -- it's hard to read. 17 It looks like SWA 612. It looks like that is where 18 we pick up. 19 And she says, "Hey, where did Mr. Talburt go? 20 Will there be another favor called in? And to think 21 you condoned his behavior, along with Brett and the 22 rest, really shows your lack of morals. Praying 23 that changes." 24 Once again she's complaining about her union, 25 right?</p>	<p style="text-align: right;">Page 552</p> <p>1 A. She's talking about someone -- a flight 2 attendant's investigation, and complaining about, I 3 guess two of us involved with the union. So yes. 4 Q. So let's see. She's complaining about 5 Mr. Talburt, your core team member, who is involved 6 in the inappropriate communications that she's 7 complaining about. Brett Nevarez, an officer, the 8 same thing, and she's sending it to you. 9 And you are telling us that is not complaining 10 about the union, this is talking about something 11 completely unrelated. 12 A. That is not what I just said. 13 Q. So it is union related, correct? 14 A. Yes. 15 Q. And then, lo and behold, the next page, she 16 says, "Well, well, well. Brian is back and so many 17 more." 18 MR. PRYOR: Your Honor, may I approach? 19 THE COURT: You may. 20 (Thereupon, the following proceedings were 21 had at sidebar:) 22 MR. PRYOR: Your Honor, I would ask -- 23 give whatever limiting instruction you want. 24 But my client is sending her -- these are 25 the messages they fired her for. She's sending a</p>

<p style="text-align: right;">Page 553</p> <p>1 union complaint saying -- let me finish -- that, 2 hey, what Brett Nevarez is doing, he had been 3 charged with something, and she predicts, oh, yes, 4 he will get off. And sure enough, that is what her 5 next text says. He gets off. 6 That is the substance of her opinion and 7 what she's writing -- 8 THE COURT: You're very loud right now. 9 MR. PRYOR: Okay. I apologize. 10 THE COURT: You only have to be picked up 11 by the mic, not by the jury. 12 MR. PRYOR: I'm sorry. It's not my 13 intent. 14 THE COURT: Understood. 15 I mean, so I think it's already come in, 16 right, against my wishes. 17 MR. PRYOR: If it came in against your 18 wishes, I will not -- 19 THE COURT: So I mean I'm not inclined to 20 bring it up to a fifth time. The jury has already 21 heard it, that he got reinstated. So I think 22 they've heard it. I don't think we need to -- 23 MR. PRYOR: I will not say it again then. 24 If it came in over your ruling, I also 25 want to mention --</p>	<p style="text-align: right;">Page 554</p> <p>1 THE COURT: This is a good stopping 2 point -- 3 MR. PRYOR: Okay. I'm done. 4 THE COURT: With it being 5:00, are we 5 near a breaking point? 6 MR. PRYOR: Sure, you can stop any time. 7 But I'm going to finish in another -- I don't want 8 to say 30 more minutes, but I have got some more 9 time with her. 10 THE COURT: Can you finish by 5:10? 11 MR. PRYOR: No, sir. 12 THE COURT: Then let's break here and come 13 back tomorrow at 9:00. 14 MR. PRYOR: Yes. 15 (Thereupon, the sidebar was concluded and 16 the following proceedings were held in open 17 court:) 18 THE COURT: It is 5:00, so we are going to 19 let y'all go. 20 So we will come back here at 8:45 in the 21 morning, get on the record, and going by 9:00. 22 So same instructions as always. Only talk 23 to your fellow jurors and court personnel, just not 24 about the case. Don't talk to anyone else. And 25 please keep an open mind and don't do any research</p>
<p style="text-align: right;">Page 555</p> <p>1 on the case. 2 All rise for the jury. 3 (The jurors exited the courtroom.) 4 THE COURT: All right. You are excused, 5 but you still can't talk to anyone about the case. 6 I'm sorry that we are carrying you over to 7 tomorrow. We will see you tomorrow at 9:00. Thank 8 you, Ms. Stone. 9 Okay. I will wait and we will take up any 10 other issues y'all have once she's out. 11 (The witness exited the courtroom.) 12 THE COURT: All righty. 13 Anything we should talk about? I know 14 Nevarez. Any peep on Nevarez? 15 MR. McKEEBY: No. We sent him another 16 communication today. 17 THE COURT: Okay. I guess the deadline is 18 tonight at 11:59. 19 MR. GREENFIELD: And a joint one last 20 night as well. 21 THE COURT: Right. Nothing. 22 So here is my read on a path forward on 23 Nevarez. So I think what I would need to do next is 24 set a show cause order out. It's awkward to send a 25 show cause setting a hearing for someone who is</p>	<p style="text-align: right;">Page 556</p> <p>1 beyond 100 miles. I could do it, or say, in the 2 alternative, explain in writing your delay if you 3 choose not to show at the hearing and do it in sworn 4 form. 5 The problem is, once I have a failure to 6 respond to a show cause order, the next remedy is a 7 motion for contempt. But then if he's not within 8 100 miles, I would have to transfer to a judge who 9 is within 100 miles of him. All right. And we see 10 what that judge does on their timelines. 11 So my request will be, let me know at 12 8:30 in the morning if there has been any 13 development on Nevarez. I will draft a show cause 14 order. 15 And then if I do it and he fails to 16 respond tonight and fails to respond to the time I 17 set in the show cause order, then I will ask if 18 Carter wants to file an appropriate motion and have 19 me transfer it to a judge wherever he's at. 20 And then I need information from Southwest 21 and the Union on where Nevarez would be at, right? 22 Because I don't know who to transfer it to if I 23 don't know his schedule. 24 MR. CLOUTMAN: He lives in Las Cruces, New 25 Mexico.</p>

<p style="text-align: right;">Page 557</p> <p>1 THE COURT: Las Cruces, New Mexico. Okay.</p> <p>2 MR. CLOUTMAN: I believe there is a</p> <p>3 district court sitting there, or Albuquerque. He</p> <p>4 rotates through there.</p> <p>5 THE COURT: Okay. Any thoughts, comments</p> <p>6 on that course of action?</p> <p>7 MR. PRYOR: I have a comment. To me, it</p> <p>8 is two issues.</p> <p>9 Certainly Mr. Nevarez, I agree that's the</p> <p>10 procedure that has to be followed with a</p> <p>11 miscellaneous proceeding, but there is also the</p> <p>12 issue of the order to Southwest Airlines and the</p> <p>13 Local 556.</p> <p>14 They have control of this person. They</p> <p>15 should have produced him. I understand they are</p> <p>16 saying, We can't get ahold of him.</p> <p>17 Well, that is pretty convenient about a</p> <p>18 witness that has got a lot of bad testimony to give</p> <p>19 in this case, and we would ask for our relief in</p> <p>20 that regard.</p> <p>21 THE COURT: I understand.</p> <p>22 And my point is we are not there yet. I'm</p> <p>23 still trying to obtain his testimony.</p> <p>24 And if another judge can secure his</p> <p>25 attendance via a marshal and some shackles, if there</p>	<p style="text-align: right;">Page 558</p> <p>1 is a judge within 100 miles of him and the judge</p> <p>2 issues a contempt ruling, then the marshals will</p> <p>3 take that out and bring him in, in leg irons. And</p> <p>4 so he could sit for a depo there or for live</p> <p>5 testimony by Teams there, right?</p> <p>6 So we are still looking at securing his</p> <p>7 testimony. The question is how do we do that?</p> <p>8 If we can't, then I need to look at</p> <p>9 alternate remedies. I need to look at do I assume</p> <p>10 the questions that you asked him would be answered</p> <p>11 the way that you would want them answered.</p> <p>12 I haven't thought through that yet because</p> <p>13 I'm not there yet.</p> <p>14 MR. PRYOR: Thank you.</p> <p>15 MR. McKEEBY: There will be the</p> <p>16 opportunity to argue that, I trust.</p> <p>17 THE COURT: Of course. Absolutely.</p> <p>18 Okay. Any other issues? I have got my</p> <p>19 prioritization on depo designations and who is up</p> <p>20 next. So we are looking at Conlon and Kleburne and</p> <p>21 Burdine and Rutherford.</p> <p>22 MR. GOTTFRIED: Your Honor, we have</p> <p>23 out-of-town witnesses, and I don't know exactly</p> <p>24 their schedules in terms of the duration of their</p> <p>25 stay in Dallas.</p>
<p style="text-align: right;">Page 559</p> <p>1 But I would like to get a better sense of,</p> <p>2 in particular, when they intend to call Ms. Emlet</p> <p>3 and Mr. Schneider.</p> <p>4 And I guess also generally, maybe a bit</p> <p>5 more precision as to the witnesses. Last night we</p> <p>6 got a -- the email indicated that they would be</p> <p>7 calling today, I think, six different witnesses, and</p> <p>8 we are not even through one.</p> <p>9 So I would ask that they give us a little</p> <p>10 bit better notice and specifically tell us with</p> <p>11 respect to these out-of-town witnesses when they</p> <p>12 intend to call them. They need to be done this week</p> <p>13 if at all possible.</p> <p>14 THE COURT: Understood.</p> <p>15 What can y'all tell us at this point in</p> <p>16 time, especially as it relates to the</p> <p>17 out-of-towners?</p> <p>18 I know when it comes to in-towners, I put</p> <p>19 the burden on y'all for 6:00 at night. We're not</p> <p>20 far from that, so you will have to tell us soon.</p> <p>21 But on the out-of-towners, what can you</p> <p>22 tell us as far as the run of show and when you can</p> <p>23 expect to call them?</p> <p>24 MR. PRYOR: We gave them our list of</p> <p>25 witnesses in order; that is still the case.</p>	<p style="text-align: right;">Page 560</p> <p>1 I don't have the email in front of me.</p> <p>2 But we will call Mr. Talburt after</p> <p>3 Ms. Stone. We would then call Mr. Nevarez, although</p> <p>4 that does not appear likely.</p> <p>5 We will then call Mr. Parrott. Then</p> <p>6 Parker, by deposition. Conlon, possibly by video.</p> <p>7 Possibly Mr. Sims.</p> <p>8 And that may be after I talk to the Court</p> <p>9 about time. And if there is not going to be time,</p> <p>10 then we may cut Mr. Sims.</p> <p>11 Mr. Schneider will be called. That would</p> <p>12 be the next witness.</p> <p>13 Basically giving our trial strategy away</p> <p>14 here to try and satisfy that request. That is</p> <p>15 pretty far down the line.</p> <p>16 THE COURT: So is Hamlet on the list? I'm</p> <p>17 just trying to think. So Schneider and Hamlet are</p> <p>18 the two out-of-towners you are asking about.</p> <p>19 MR. McKEEBY: Emlet and Schneider.</p> <p>20 THE COURT: Emlet. Sorry.</p> <p>21 MR. PRYOR: Emlet is on the list.</p> <p>22 After Schneider, I anticipate it will be</p> <p>23 Ms. Hudson and then Ms. Emlet.</p> <p>24 THE COURT: So the question is, are they</p> <p>25 off the hook? Can they leave town for a day or two,</p>

<p style="text-align: right;">Page 561</p> <p>1 or how fast do you expect to go, assuming that we 2 don't have Nevarez here. And I don't know the 3 answer to that. 4 Can I ask a question right quick on 5 cleanup? Conlon, you said by video. Are we talking 6 live video Teams or video depo? 7 MR. PRYOR: Live video. Video deposition. 8 I'm sorry. 9 THE COURT: Video depo. Got it. 10 I'm just making sure, because Conlon is 11 the first on my list to go through page/line 12 objections. If it was a live video, then we scrap 13 the page/line. So I'm just making sure it is a 14 video depo. 15 Well, I'm trying to figure out if there is 16 a day off for Emlet and Schneider tomorrow. That is 17 what I'm trying to figure out. 18 I don't know the answer to that. If these 19 witnesses are super efficient, then sure, right? If 20 we skip Nevarez and the Parker depo is quick, 21 then -- 22 MR. PRYOR: As we said in our motion 23 regarding more time, our two long witnesses are 24 Ms. Stone and Ms. Carter, which we anticipate they 25 would take half of our case.</p>	<p style="text-align: right;">Page 562</p> <p>1 The rest we would like more time with, but 2 obviously, it is what the Court gives us. 3 THE COURT: Understood. 4 Okay. So do you all anticipate getting to 5 Schneider or Emlet tomorrow? That's my question. 6 I mean, y'all can't forecast what they are 7 going to spend on cross. 8 MR. GILLIAM: I would say Emlet is 9 unlikely. I would say Schneider is -- 10 THE COURT: Possibly by the end of the 11 day? 12 MR. PRYOR: I would think Schneider at the 13 end of the day or the next morning. 14 THE COURT: Sure. 15 MR. GREENFIELD: Your Honor, while John 16 Parrott came up, is there any way we can make him 17 available via phone call? He is local. He sat here 18 all day patiently, and it was pretty clear he wasn't 19 going to go. We only caught him in the hall at that 20 last break, to say, Hey, you can get out of here. 21 Is there any way we can make that notice 22 via phone call so he doesn't have to be here at 23 9 a.m. tomorrow? 24 THE COURT: So Talburt is going next after 25 Stone?</p>
<p style="text-align: right;">Page 563</p> <p>1 MR. PRYOR: Yes. 2 THE COURT: Sure. I mean, I would assume 3 we wouldn't get to Parrott until like 10, 10:30. 4 MR. PRYOR: I'm very hopeful to finish 5 after another hour or less with Ms. Stone. 6 THE COURT: And we still have got cross, 7 wide-open cross. 8 MR. PRYOR: I don't know how long that is 9 going to take. If they want to do their case cross, 10 that's fine. 11 How long are you going to take? 12 MR. GREENFIELD: I would presume that 13 Stone alone will take us into the afternoon, your 14 Honor. 15 THE COURT: Sure. 16 MR. PRYOR: I didn't hear. How long? 17 MR. GREENFIELD: I presume -- at least, 18 based on my anticipation, I can't speak for 19 Southwest -- that depending on when you wrap up 20 Stone, it will probably get us to lunchtime by the 21 time the two of us are done would be my guess. 22 MR. PRYOR: Oh. So we may not get to 23 Schneider tomorrow then if you are going to take 24 that long. 25 Okay. I don't know.</p>	<p style="text-align: right;">Page 564</p> <p>1 Well, do you think you will be done by 2 noon? 3 MR. GREENFIELD: I can't possibly make 4 that representation. 5 MR. GILLIAM: We are trying to give you 6 some of our forecast. 7 THE COURT: How about this. 8 MR. GREENFIELD: You guys took all day 9 with one witness and you said you might call six. 10 THE COURT: Tell Parrott to be here by 11 12:30. We can break for lunch. If we need to break 12 for an early lunch at 11:30 when we finish with the 13 final round of examination on Stone, so be it, and 14 then Parrott can be here 12:30, and then we can pick 15 up and go. 16 Does that make sense? 17 MR. PRYOR: That's fine. I don't think we 18 will get to -- 19 THE COURT: All right. And Schneider is 20 probably off tomorrow. Emlet is probably off 21 tomorrow. Got it. 22 Anything else? 23 When you send your emails at 6:00 and 24 8:00, can you also copy Ms. Silver on it, not just 25 Mr. Frye? The law clerks work all sorts of hours</p>

<p style="text-align: right;">Page 565</p> <p>1 because they are FSLA exempt. 2 So her email, if you don't have it handy, 3 is savannah_silver@txnd.uscourts.gov. 4 All right. See y'all in the morning at 5 8:30. 6 THE COURT SECURITY OFFICER: All rise. 7 (Proceedings adjourned at 5:14 p.m.) 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 566</p> <p>1 C E R T I F I C A T E 2 3 I, Kelli Ann Willis, RPR, CRR, CSR 4 certify that the foregoing is a transcript from the 5 record of the proceedings in the foregoing entitled 6 matter. 7 I further certify that the transcript 8 fees format comply with those prescribed by the 9 Court and the Judicial Conference of the United 10 States. 11 This 7th day of July 2022. 12  13 s/ Kelli Ann Willis 14 Official Court Reporters 15 Northern District of Texas 16 Dallas Division 17 18 19 20 21 22 23 24 25</p>

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1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF TEXAS

3 CASE NO. 3:17-cv-02278-X
4

5 -----x
6 CHARLENE CARTER,

7 Plaintiff,

8 v.

9 SOUTHWEST AIRLINES CO. and
10 TRANSPORT WORKERS OF AMERICA,
LOCAL 566,

11 Defendants.
12

13 -----x
14
15
16 TRANSCRIPT OF THE TRIAL
17 BEFORE THE HONORABLE BRANTLEY STARR
18 UNITED STATES DISTRICT JUDGE
19

20 V O L U M E 3
21

22 Dallas, Texas

23 July 7, 2022

24 8:38 a.m.
25

<p style="text-align: right;">Page 568</p> <p>1 A P P E A R A N C E S:</p> <p>2</p> <p>3 FOR THE PLAINTIFFS:</p> <p>4 NATIONAL RIGHT TO WORK FOUNDATION INC.</p> <p>5 8001 Braddock Street</p> <p>6 Suite 600</p> <p>7 Springfield, Virginia 22160</p> <p>8 BY: MATTHEW B. GILLIAM, ESQ.</p> <p>9 mgb@nrtw.org</p> <p>10</p> <p>11 PRYOR & BRUCE</p> <p>12 302 North San Jacinto</p> <p>13 Rockwall, Texas 75087</p> <p>14 BY: BOBBY G. PRYOR, ESQ.</p> <p>15 MATTHEW D. HILL, ESQ.</p> <p>16 bprior@priorandbruce.com</p> <p>17 mhill@priorandbruce.com</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 569</p> <p>1 For the Defendant Union 566:</p> <p>2</p> <p>3 CLOUTMAN & GREENFIELD, PLLC</p> <p>4 3301 Elm Street</p> <p>5 Dallas, TX 75226</p> <p>6 BY: ADAM S. GREENFIELD, ESQ.</p> <p>7 EDWARD B. CLOUTMAN, III, ESQ.</p> <p>8 agreenfield@candglegal.com</p> <p>9 crawfish11@prodigy.net</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 570</p> <p>1 COURT REPORTER: MS. KELLI ANN WILLIS, RPR, CRR, CSR</p> <p>2 United States Court Reporter</p> <p>3 1100 Commerce Street</p> <p>4 Room 1528</p> <p>5 Dallas, Texas 75242</p> <p>6 livenotecrr@gmail.com</p> <p>7</p> <p>8 Proceedings reported by mechanical</p> <p>9 stenography and transcript produced by computer.</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 571</p> <p>1 I N D E X</p> <p>2</p> <p>3 W I T N E S S E S</p> <p>4 AUDREY STONE</p> <p>5 Cont. Direct Examination by Mr. Pryor 595</p> <p>6 Cross-Examination by Mr. Greenfield 676</p> <p>7 Cross-Examination by Mr. McKeeby 768</p> <p>8 Redirect Examination by Mr. Pryor 792</p> <p>9 Recross Examination by Mr. McKeeby 814</p> <p>10 Proffered Testimony 818</p> <p>11</p> <p>12</p> <p>13 EDWARD SCHNEIDER</p> <p>14 Direct Examination by Mr. Pryor 867</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p style="text-align: right;">Page 572</p> <p>1</p> <p>2 EXHIBITS</p> <p>3</p> <p>4 Trial Exhibit 15-A 598</p> <p>5 Trial Exhibit 106-A 601</p> <p>6 Trial Exhibit 65 616</p> <p>7 Trial Exhibit 34 622</p> <p>8 Trial Exhibit 21-Q 644</p> <p>9 Trial Exhibit 21-R 644</p> <p>10 Trial Exhibit 21-T 651</p> <p>11 Trial Exhibit 21-U 657</p> <p>12 Trial Exhibit 21-V 660</p> <p>13 Trial Exhibit 21-X 672</p> <p>14 Trial Exhibit 134 720</p> <p>15 Trial Exhibit 67 749</p> <p>16 Trial Exhibit 47 778</p> <p>17 Trial Exhibit 94 780</p> <p>18 Trial Exhibit 49 790</p> <p>19 Trial Exhibit 21-O 794</p> <p>20 Trial Exhibit 21-C 851</p> <p>21 Trial Exhibit 71 866</p> <p>22 Trial Exhibit 72 866</p> <p>23 Trial Exhibit 21-M 866</p> <p>24 Trial Exhibit 21-W 866</p> <p>25</p>	<p style="text-align: right;">Page 573</p> <p>1 -- PROCEEDINGS --</p> <p>2</p> <p>3 THE COURT SECURITY OFFICER: All rise.</p> <p>4 THE COURT: Thank you.</p> <p>5 You can be seated.</p> <p>6 Okay. So Day 3 of trial.</p> <p>7 Let's go ahead and do appearances for</p> <p>8 Carter.</p> <p>9 MR. GILLIAM: Matthew Gilliam for</p> <p>10 Plaintiff, Charlene Carter, along with Matt Hill and</p> <p>11 Bobby Pryor.</p> <p>12 THE COURT: Thank you.</p> <p>13 And how about Southwest next?</p> <p>14 MR. McKEEBY: Paulo McKeeby on behalf of</p> <p>15 Southwest, with Brian Morris and company</p> <p>16 representative Meggan Jones.</p> <p>17 THE COURT: Thank you.</p> <p>18 And how about the Union?</p> <p>19 MR. GREENFIELD: Adam Greenfield and</p> <p>20 Edward Cloutman, III on behalf of TWU, Local 556.</p> <p>21 We are expecting our corporate</p> <p>22 representative, Mr. Michael Masoni. The line down</p> <p>23 in security was a little extra long this morning.</p> <p>24 THE COURT: Sorry to hear that. It is</p> <p>25 challenging on days like this.</p>
<p style="text-align: right;">Page 574</p> <p>1 We were supposed to be one of three trials</p> <p>2 going on in the courthouse right now, and so we are</p> <p>3 fortunate that not all of them went. But still,</p> <p>4 even if there is more than one or one plus</p> <p>5 sentencings, it results in quite a line at security.</p> <p>6 So thank y'all for being here timely and</p> <p>7 getting through it, and no worries if someone else</p> <p>8 is stuck.</p> <p>9 Okay. So I know we didn't have new</p> <p>10 objections last night.</p> <p>11 What I wanted to talk about right quick is</p> <p>12 time clock, see if there is anything on Nevarez we</p> <p>13 should talk about, and then talk about any exhibits</p> <p>14 we didn't get to yesterday morning so we can</p> <p>15 minimize sidebar time and inefficiencies there.</p> <p>16 Okay. On time clock, I think we sent out</p> <p>17 the nightly update. We will keep doing that. We</p> <p>18 will send y'all every night the latest exhibit list</p> <p>19 that I've been keeping track of, as well as the time</p> <p>20 clock.</p> <p>21 What I wanted to say on the time clock is,</p> <p>22 for Team Carter, I know you told me, Mr. Pryor, that</p> <p>23 your goal was to use about half your time on Stone</p> <p>24 and your client.</p> <p>25 MR. PRYOR: That's what we anticipate.</p>	<p style="text-align: right;">Page 575</p> <p>1 THE COURT: If you use the other hour that</p> <p>2 you predicted on Stone, then you will have used half</p> <p>3 your time just on Stone and opening.</p> <p>4 So I'm expressing concern. And so what I</p> <p>5 want to do is just plot this out in advance.</p> <p>6 Remember my standard for when I give you more time</p> <p>7 is you have used your time efficiently and you have</p> <p>8 a compelling need for more.</p> <p>9 What I would say, the first day</p> <p>10 presentation, if you ask for more time right now, I</p> <p>11 would say no, and here is why.</p> <p>12 The inefficiencies I saw, I think you have</p> <p>13 reached a long time ago the point of diminishing</p> <p>14 returns on Stone with regard to what in the Facebook</p> <p>15 messages she sent was union speak.</p> <p>16 She said yes to all of them. I think once</p> <p>17 you get too deep, you have reached the economic</p> <p>18 point of diminishing returns.</p> <p>19 I talk to juries every time after trial,</p> <p>20 and they say, Why did they say the same thing over</p> <p>21 and over again, always, when even I time every</p> <p>22 trial.</p> <p>23 And so I think the jury is getting tired</p> <p>24 of this. And so you are actually, for each one of</p> <p>25 those questions now, you are taking time away from</p>

<p style="text-align: right;">Page 576</p> <p>1 your client to ask her, Well, what about page 23 in 2 this packet, is that union speech? 3 She said yes to all of them, right? 4 You've made your point. 5 Other things. I think we have had a lot 6 of asked and answered objections that I have 7 sustained over here from the Defendants' side. 8 And I get that you may need to make your 9 point repeatedly. I usually only sustain those if I 10 get to a third and a fourth time, right? If you 11 circling back time three, time four. 12 I realize it's an important witness, you 13 may need to make a point more than once. 14 And the last inefficiency I'd point out 15 is, your style with this witness is combative and 16 that is fine. I give people free rein to pick 17 whatever style they want to. But with this witness, 18 I'm not sure it is particularly helpful from an 19 efficiency standpoint. 20 MR. PRYOR: Right. 21 THE COURT: I realize your need to pick 22 your style, and that is fine. But that is your 23 choice. I don't know that it is an efficient time 24 choice with this particular witness. 25 MR. PRYOR: Your Honor, if I could just</p>	<p style="text-align: right;">Page 577</p> <p>1 respond to one comment. 2 THE COURT: You may. 3 MR. PRYOR: I accept everything you are 4 saying. 5 Going through the documents, each 6 communication, I tried to get her to say they were 7 all union-related activities so I could -- we have 8 our record that it's all protected activity -- and 9 she would not. 10 We have a daily. She did not. She 11 refused to say that. She said, no, she thought some 12 things were unrelated, and there were memes and 13 there were -- I did not get that definitive 14 testimony, at least I don't think I did, based on -- 15 you think I did. She absolutely did not. I have to 16 go through it to establish that it was protected 17 activity and through her own testimony as the Union 18 president. 19 We think it is significant, and I, 20 unfortunately, have more to do. 21 As I have gone along, I have asked her, Do 22 you want to agree? And she won't. 23 And it is important to our case, both from 24 a directed verdict standpoint, on appeal, to this 25 jury, that we establish all the communications fall</p>
<p style="text-align: right;">Page 578</p> <p>1 within a protected category. 2 So I accept all of your criticism, or your 3 comments, but I will tell you my view of the 4 evidence and why I have to do that. 5 THE COURT: I understand that. 6 So the only thing I would say in response 7 to that is, perhaps I didn't view her equivocation 8 on that point in the same way that you did. 9 MR. PRYOR: Okay. 10 THE COURT: But I would say, from an 11 efficiency standpoint, you can ask her, Is there 12 anything else in this packet that you think crossed 13 that line and is not union speech, right? 14 I think where she has drawn the line, at 15 least in my view, is she thought that, you know, the 16 video and the commenting online, that crossed the 17 line into a threat, and in her view, is no longer 18 union speech or protected speech. 19 And so pulling away all of her testimony, 20 that is what I view as the whole packet, union 21 speech except for those two things. 22 MR. PRYOR: I thought that would be an 23 objectionable question, but I like it, so I will 24 definitely -- 25 THE COURT: In the interest of time, I put</p>	<p style="text-align: right;">Page 579</p> <p>1 y'all on a clock. If someone objects to it, you may 2 have to give her a couple of minutes to thumb 3 through the packet. 4 MR. PRYOR: I'm happy to. 5 THE COURT: If you want to give her a few 6 minutes to thumb through the packet, that is fine by 7 me. 8 MR. PRYOR: I'm going to do that first 9 thing, your Honor. 10 THE COURT: That is fine. 11 Okay. So I would just like to preview for 12 people in advance what I'm thinking on the clock and 13 why, and I will do the same thing once we see more 14 time being used from Southwest and the Union, 15 because I want people to use their time efficiency. 16 I want to give them more if they use it wisely, but 17 I have got to be a good steward of time. 18 Unfortunately, y'all are one of many cases 19 that we inherited that were almost trial ready when 20 I came on the bench in 2019. 21 And then with COVID and not many people 22 wanting to try their cases in COVID, I tried 23 everyone who was willing to try during COVID. 24 We have now this crushing backlog, right, 25 that is ready for trial. So I have got four civil</p>

<p style="text-align: right;">Page 580</p> <p>1 that are ready in go in August.</p> <p>2 So we had another that wanted to go next</p> <p>3 week. We moved them to August so we would have more</p> <p>4 time for this trial.</p> <p>5 But we are really trying to deal with the</p> <p>6 pandemic and the aftermath of it.</p> <p>7 So I'm not trying to be a jerk, I want to</p> <p>8 give everyone the time they want to have, but</p> <p>9 everyone wants a lot of time and everyone wants to</p> <p>10 try their case now. I'm trying to juggle that.</p> <p>11 So any update on Brett Nevarez? I assume</p> <p>12 y'all did not have a happy late-night depo last</p> <p>13 night? No communication, I assume.</p> <p>14 MR. McKEEBY: I'm being signaled that</p> <p>15 there has been no communication.</p> <p>16 MR. GREENFIELD: Me either.</p> <p>17 THE COURT: So what I can do is, I have a</p> <p>18 draft of a show cause order that says, You have now</p> <p>19 violated a couple of my court orders. I have at the</p> <p>20 bottom of that draft language asking y'all to send</p> <p>21 that order as soon as I file it jointly by email to</p> <p>22 Mr. Nevarez.</p> <p>23 Seeing if y'all can serve it on</p> <p>24 Mr. Nevarez. I don't know if you have a process</p> <p>25 server and if we can get location information, that</p>	<p style="text-align: right;">Page 581</p> <p>1 would work to get that in his hands.</p> <p>2 I think that is a predicate to any motion</p> <p>3 for sanctions or contempt that would get filed from</p> <p>4 Carter.</p> <p>5 I will say, from Carter, I know we have</p> <p>6 the certificate of no show that you filed from the</p> <p>7 deposition. I don't know that we have the trial</p> <p>8 subpoena or the affidavit from the server on that.</p> <p>9 And so if you file a motion on the heels</p> <p>10 of my show cause, then we may need to paper up the</p> <p>11 record in those two regards to have a motion that is</p> <p>12 transferable to New Mexico.</p> <p>13 Does that make sense?</p> <p>14 So my show cause would set a hearing for</p> <p>15 tomorrow morning before trial. He's not going to</p> <p>16 show to that either. Or it lets him respond by</p> <p>17 affidavit before the date of the hearing. Or it</p> <p>18 lets him do the depo before the date of the hearing</p> <p>19 to avoid any need for the hearing.</p> <p>20 It's a choose your own adventure. Show up</p> <p>21 to the hearing and explain why you violated these</p> <p>22 orders, or do the depo, or explain under oath in</p> <p>23 writing why you did it.</p> <p>24 I think none of those three options would</p> <p>25 probably happen, given what we have seen now. And</p>
<p style="text-align: right;">Page 582</p> <p>1 so the most likely outcome is that Carter files</p> <p>2 emergency motion for sanctions that then I</p> <p>3 immediately transfer to New Mexico.</p> <p>4 Thoughts on that path?</p> <p>5 MR. McKEEBY: That sounds fine to me.</p> <p>6 I just -- I would want to make one point</p> <p>7 of clarification, that the emails the last two days</p> <p>8 have gone from Southwest in-house counsel to</p> <p>9 Mr. Nevarez, not me. Just so that if that comes up,</p> <p>10 there is no confusion. And Union's counsel has been</p> <p>11 copied on those emails.</p> <p>12 THE COURT: Got it. And I'm fine with</p> <p>13 that approach, too, for service of this.</p> <p>14 When I say "counsel for Southwest," I'm</p> <p>15 fine with that being in-house counsel, if that makes</p> <p>16 sense.</p> <p>17 MR. GREENFIELD: We sent out a joint one</p> <p>18 with in-house.</p> <p>19 THE COURT: Okay. That is great by me.</p> <p>20 I'm not going to tell y'all that it has got to be</p> <p>21 out-house counsel, as they are sometimes referred</p> <p>22 to, or in-house. But that is fine by me. In-house</p> <p>23 or outside counsel is fine.</p> <p>24 So we have got that drafted. I'm going to</p> <p>25 ask our staff to docket that this morning.</p>	<p style="text-align: right;">Page 583</p> <p>1 I know we docketed the Conlon page/line</p> <p>2 designation objections, and we are working on</p> <p>3 Kleburne. We should have Kleburne out shortly. So</p> <p>4 we will keep those rolling out.</p> <p>5 And I think in order we looked at next are</p> <p>6 Burdine, Rutherford and Lacore.</p> <p>7 And so sorry for the rolling production.</p> <p>8 MR. McKEEBY: One other issue on the</p> <p>9 Talburt designations.</p> <p>10 THE COURT: Yes.</p> <p>11 MR. McKEEBY: We had objections on the</p> <p>12 same relevance grounds as the Court has heard before</p> <p>13 that were raised in our motion in limine.</p> <p>14 I think some of those were denied even in</p> <p>15 the context where Mr. Talburt talks about the</p> <p>16 discipline that he received. And it is no one's</p> <p>17 fault, but it is --</p> <p>18 THE COURT: Have you got specific -- well,</p> <p>19 can you give me specifics? So I'm happy to</p> <p>20 reconsider anything I have done. But if you can</p> <p>21 give me specific ones -- and by email is fine,</p> <p>22 right? We may be going, and I may look at that last</p> <p>23 note again.</p> <p>24 MR. McKEEBY: Okay. I will have</p> <p>25 Mr. Morris look at that.</p>

<p style="text-align: right;">Page 584</p> <p>1 But I will also say that it's not -- it's 2 complicated because it's sort of comments that are 3 intertwined with other testimony that probably is 4 relevant and should come in. 5 So I just think as a practical matter -- I 6 guess I will reserve the right to change my mind on 7 this -- but as a practical matter, it may be that a 8 limiting instruction is the more appropriate vehicle 9 than to try to excise two sentences out of a video 10 clip. 11 THE COURT: You can edit videos in a very 12 awkward fashion. 13 But all that is to say, I have already 14 sort of spilled the beans with the jury here, and so 15 that may be the easiest course, is to let it in. 16 But let me tell the jury, Hey, this was a depo. 17 I've cut out some of this, as you already know, so 18 please ignore the Southwest stuff. 19 MR. McKEEBY: I will look more closely at 20 the specific pages that I'm talking about. 21 But I just wanted to give you and the reps 22 of the parties a heads up that I think the more 23 likely request is going to be to stand up and say, 24 Judge, we would like the limiting instruction here. 25 THE COURT: Understood. That helps.</p>	<p style="text-align: right;">Page 585</p> <p>1 We will look for the specific page/line by 2 email from y'all and take another look at that. 3 MR. PRYOR: Your Honor, in that regard, 4 that actually was on my list to raise, too, after 5 our discussion yesterday. 6 I asked this -- I didn't do his 7 designations. I asked this morning, and I was told 8 that there are portions of his testimony that 9 mentions that he was terminated and then reinstated, 10 things like that. 11 And I certainly recall asking him at 12 deposition. 13 And if we need to adjust the video, let us 14 know. He is our next witness, but we probably won't 15 get to him until after lunch. This guy is pretty 16 amazing at that. 17 The second is Exhibit 15, the next 18 document that Charlene communicated with Ms. Stone 19 about, says, "Well, well, well. Brian has now been 20 reinstated, just like I predicted." 21 And I, yesterday, was discussing I thought 22 I should be able to talk about that, and I think you 23 said no. That's fine. 24 That document is in evidence and we may 25 need to redact it or something. But I -- I want to</p>
<p style="text-align: right;">Page 586</p> <p>1 be able to get her to say it's protected activity. 2 Now, if the question that you have 3 suggested works, I won't have to go into those 4 details with her. But if it doesn't -- I don't want 5 to say anything about Talburt being terminated is my 6 point. It is right there in the document that I'm 7 talking to her about. And it will be on the screen. 8 So I want to be correct. 9 THE COURT: Sure. Understood. 10 Southwest? 11 MR. McKEEBY: Again, I mean, at some 12 level, it has to come in to some degree. So I think 13 just the repetition of the limiting instruction, 14 rather than confusing the jury about whitening out a 15 portion of the Facebook message, is the better 16 course, quite frankly. And that's what I would 17 suggest. 18 THE COURT: I think that is -- so we are 19 all on the same page. I mean, I think that is the 20 wisest course of action. 21 I've already let the cat out of the bag, 22 so to speak, with that, and the jury has already 23 heard some of that. 24 So what I will do is, when you put the 25 document up on the screen, can you just give me a</p>	<p style="text-align: right;">Page 587</p> <p>1 look, and then I will tell them, Hey, I have told 2 y'all before some of this stuff on how Southwest 3 treats its employees stays out of the case, but some 4 of it's already in the exhibits, so we are not going 5 to white them out. But keep in mind, that is not 6 really a part of the case, how Southwest treated 7 other employees. 8 MR. PRYOR: Okay. And so what we are 9 talking about is redacting it then, when we send it 10 to the jury, take it out? Is that -- 11 THE COURT: I think we are talking about 12 we don't redact it, but I tell them -- 13 MR. PRYOR: Oh, a limiting instruction. 14 THE COURT: I give the jury a limiting 15 instruction that says, "Do not consider this." 16 I think juries do see an online portal of 17 boxes, right? But when we redact personal emails 18 and things, they go, what is behind that? 19 And the short answer is it is nothing, it 20 is irrelevant. 21 Okay. So anything else we should talk 22 about before we jump into exhibits? 23 MR. GREENFIELD: We can wait until 24 afternoon. 25 THE COURT: Can we get that mic a little</p>

<p style="text-align: right;">Page 588</p> <p>1 closer to you?</p> <p>2 MR. GREENFIELD: We can wait until</p> <p>3 afternoon.</p> <p>4 THE COURT: Okay. Anything else,</p> <p>5 pre-exhibit, that we should cover?</p> <p>6 So for exhibits, I'm going back to my list</p> <p>7 from yesterday, and the first one I have that we did</p> <p>8 not cover either in the morning session or rule on</p> <p>9 at trial was Exhibit No. 34.</p> <p>10 Mr. Greenfield, tell me if I'm wrong on</p> <p>11 that.</p> <p>12 34 is the first on my list to talk about</p> <p>13 this morning.</p> <p>14 MR. GREENFIELD: I see 34, and I'm pulling</p> <p>15 up the exhibit right now, your Honor.</p> <p>16 THE COURT: Got it.</p> <p>17 MR. GREENFIELD: I know which way this is</p> <p>18 leaning, but I will maintain my relevance objection.</p> <p>19 THE COURT: I appreciate that.</p> <p>20 What I want to do is, sometimes I will</p> <p>21 signal y'all why I'm doing what I'm doing. I don't</p> <p>22 do that as a means to try to bully you into pulling</p> <p>23 down your objections, so we can still efficiently do</p> <p>24 this, just in the manner that you did.</p> <p>25 So, yeah, I think it is relevant, but I</p>	<p style="text-align: right;">Page 589</p> <p>1 appreciate you still preserving your objection in an</p> <p>2 efficient way. I think we can all handle this in a</p> <p>3 very similar manner.</p> <p>4 So I will overrule the relevance objection</p> <p>5 on the record here for 34.</p> <p>6 Okay. So the next one I have,</p> <p>7 Mr. Greenfield, is 53, a Women's March, Planned</p> <p>8 Parenthood newsletter.</p> <p>9 I see you as having relevance, prejudice</p> <p>10 and hearsay, and best evidence objections there.</p> <p>11 I'm happy to hear anything you want to say</p> <p>12 and I'm happy to hear Carter's response.</p> <p>13 MR. GREENFIELD: Your Honor, this is a</p> <p>14 document that we talked about at sidebar yesterday.</p> <p>15 I think -- I don't know if opposing</p> <p>16 counsel intends to revisit this document or submit</p> <p>17 it later. But I think they kind of worked around to</p> <p>18 get the information that they needed out of it, but</p> <p>19 I'm not going to try his case for him.</p> <p>20 But I maintain my objections on it.</p> <p>21 THE COURT: That is a good question.</p> <p>22 So do you think you are going to try to</p> <p>23 admit 53 today, or what is your plan?</p> <p>24 MR. PRYOR: I don't think we have a</p> <p>25 sponsoring witness for that. She didn't identify</p>
<p style="text-align: right;">Page 590</p> <p>1 it.</p> <p>2 THE COURT: Got it.</p> <p>3 So what I will say is I'll just not rule</p> <p>4 on it right now because it's not a plan to offer</p> <p>5 with a sponsoring witness as of yet. If we need to</p> <p>6 revisit it, we can.</p> <p>7 MR. PRYOR: I think I tried yesterday and</p> <p>8 failed.</p> <p>9 THE COURT: I don't have 53 on my list,</p> <p>10 and I do recall us talking about it at sidebar.</p> <p>11 56.</p> <p>12 And by the way, every day they are just</p> <p>13 going to tap me on the shoulder or do something when</p> <p>14 we have got our full jury, and then we will break in</p> <p>15 our action so that we can bring in the jury.</p> <p>16 I let in 56 yesterday.</p> <p>17 I sustained 57.</p> <p>18 Which I think takes us to 59, if I'm</p> <p>19 right.</p> <p>20 Mr. Greenfield, is 59 next on your list?</p> <p>21 MR. GREENFIELD: Yes, your Honor.</p> <p>22 MR. GILLIAM: Your Honor, I thought that</p> <p>23 was withdrawn.</p> <p>24 MR. GREENFIELD: Which one?</p> <p>25 I think 59 is duplicative of 56.</p>	<p style="text-align: right;">Page 591</p> <p>1 THE COURT: 56.</p> <p>2 MR. GILLIAM: I apologize.</p> <p>3 MR. GREENFIELD: Is that right?</p> <p>4 THE COURT: So if you don't intend to</p> <p>5 offer 59, we won't talk about it.</p> <p>6 MR. GILLIAM: I think it is duplicative.</p> <p>7 THE COURT: And 56 came into evidence.</p> <p>8 MR. GILLIAM: Right.</p> <p>9 THE COURT: So I will just note it as</p> <p>10 withdrawn and then move on to the next one.</p> <p>11 64 I have down as next. I've got Union</p> <p>12 objections on hearsay.</p> <p>13 The jurors are all here. And I will say,</p> <p>14 jurors are here, despite car trouble for one juror,</p> <p>15 and he still got here on time. So our seven are</p> <p>16 holding strong, they are trying to not get down to</p> <p>17 six, and I appreciate that. So we will keep you</p> <p>18 posted.</p> <p>19 Thank you, Mr. Gillespie, for getting</p> <p>20 Ms. Stone. You can go ahead and bring her in. I'll</p> <p>21 ask her before the jury gets here, make sure she</p> <p>22 kept my instruction not to talk anyone about the</p> <p>23 case. Then we will bring in the jury and get going.</p> <p>24 Sound good?</p> <p>25 MR. GILLESPIE: Yes, your Honor.</p>

<p style="text-align: right;">Page 592</p> <p>1 THE COURT: So while she comes in, 64, 2 anything you want to tell me on 64? 3 MR. GREENFIELD: It was just the same 4 thing about the limiting instruction that we 5 discussed yesterday, so I don't think we need to 6 revisit it. But I will maintain my objection as to 7 wanting that limiting instruction -- request, excuse 8 me. 9 THE COURT: Understood. 10 And so what I will do on that -- and I'll 11 just say, I get the point, and I would love it from 12 an ideal nature if I could always say, this document 13 is not being offered for its truth, but it would 14 double the time of trial, because most all of these 15 documents come in under some hearsay exception or 16 not hearsay. 17 So I will just say I'm overruling the 18 objection and the limiting instruction request. 19 MR. GREENFIELD: The same goes for 65, 20 your Honor. 21 THE COURT: For 65. 22 Okay. I will do the same thing for 65 as 23 for 64 then. I will overrule that request. 24 And we have handled 68 through 72. 25 And we got it done. We struck the landing</p>	<p style="text-align: right;">Page 593</p> <p>1 just when we needed to. So thank you y'all for your 2 efficiency this morning. I appreciate it. 3 MR. PRYOR: I get that extra time? 4 THE COURT: Well, actually, like any time 5 we make up more time, that gives me more time at the 6 end to give out if we've had an efficient 7 presentation, right? 8 MR. PRYOR: Bring them in, Judge. 9 (The witness entered the courtroom.) 10 THE COURT: Ms. Stone, welcome back. 11 Before I bring in the jury, I just need to 12 ask you, did you talk to anyone about the case? 13 THE WITNESS: No. 14 THE COURT: Okay. Thank you for keeping 15 my instruction. 16 So we can bring in the jury. 17 MR. GREENFIELD: Your Honor, I'm sorry, I 18 did have one more issue before we start. 19 THE COURT: Kevin, can you go tell Randy 20 to hold? 21 MR. GREENFIELD: I just have a personal 22 request that after Plaintiffs close with Ms. Stone, 23 that I be given a five-minute break to go make a 24 phone call. My two-year-old suffered a severe arm 25 break last night and is in surgery this morning.</p>
<p style="text-align: right;">Page 594</p> <p>1 He's out of surgery, but not out of -- but not awake 2 and out of anesthesia. And I would like to make a 3 call to check on him. 4 THE COURT: Absolutely. So after you 5 finish with Stone, I will break, and then go do your 6 thing. And stay out as long as you need to. 7 I'm sorry to hear that. That is rough. 8 MR. GREENFIELD: Thank you, your Honor. 9 THE COURT: Okay. We are ready. 10 THE COURT SECURITY OFFICER: All rise for 11 the jury. 12 (The jurors entered the courtroom.) 13 THE COURT: All right. Thank you. You 14 can be seated. 15 All right. Mr. Pryor, you can continue 16 your examination of Ms. Stone. 17 THE COURT: Ms. Stone, you're still under 18 oath. We don't need to swear you in again unless 19 you feel like you need another oath. 20 Feel good? 21 THE WITNESS: (Nods head.) 22 Okay. Let's go for it. 23 Mr. Pryor, you can continue. 24 25</p>	<p style="text-align: right;">Page 595</p> <p>1 DIRECT EXAMINATION - CONTINUED 2 BY MR. PRYOR: 3 Q. Good morning, Ms. Stone [sic]. 4 A. Good morning. 5 Q. Yesterday we were talking about Exhibit 15 and 6 whether or not all of Ms. Stone's [sic] 7 communications were protected union activity. And 8 we made it through this page right here, 612. 9 I'm going to give you this exhibit. 10 It has been suggested to me by someone wiser 11 than myself that maybe instead of having to go 12 through each of these and have me read them to you, 13 just have you look at it and tell us any pages that 14 you think do not relate to Charlene Stone [sic] 15 exercising her protected union activity, that she's 16 sending this in connection with communicating to her 17 union about a complaint or concern. 18 Okay? 19 Do you understand the question? 20 THE COURT: Mr. McKeeby. 21 MR. McKEEBY: Objection to the use of the 22 term "protected activity." It calls for a legal 23 conclusion. 24 THE COURT: Okay. Overruled. I will 25 allow the question.</p>

<p style="text-align: right;">Page 596</p> <p>1 You can approach.</p> <p>2 BY MR. PRYOR:</p> <p>3 Q. Here is the document.</p> <p>4 And I will tell you, there are some pages that</p> <p>5 are blurred and I can't read them, and I'm not</p> <p>6 expecting you, if it is blurred, to read the blur.</p> <p>7 But those that you can read, if there is</p> <p>8 something that doesn't relate to Ms. Carter</p> <p>9 complaining about her union, let me know.</p> <p>10 A. Just for clarification, I heard you say</p> <p>11 "Ms. Stone's communication," and I also heard you</p> <p>12 say "Charlene Stone."</p> <p>13 Q. Okay. I'm able to mess up any names,</p> <p>14 apparently. American Airlines, Southwest Airlines.</p> <p>15 I'm talking about Charlene sending</p> <p>16 communications to the president of her union, and is</p> <p>17 there something in here that doesn't tie into her</p> <p>18 complaint about her union.</p> <p>19 A. I'm not able to read some of these either.</p> <p>20 Q. I will tell you what. The ones that you can't</p> <p>21 read, let me give you a marker, and just kind of</p> <p>22 slash across the pages that you can't read. And</p> <p>23 there's quite a few.</p> <p>24 The ones that you can't read, just put a slash</p> <p>25 across it.</p>	<p style="text-align: right;">Page 597</p> <p>1 A. (Witness complies.)</p> <p>2 Q. When you get to the page that says "Trial</p> <p>3 Exhibit 15," you can stop, because we've covered</p> <p>4 everything else.</p> <p>5 A. Is that going to be on the bottom, or where</p> <p>6 should I be looking for that?</p> <p>7 Q. I couldn't hear you.</p> <p>8 A. Is that going to be on the bottom? Where would</p> <p>9 I find that?</p> <p>10 Q. I will just take that part away from you. Here</p> <p>11 is what we have covered so far.</p> <p>12 Did you see anything that you did not consider</p> <p>13 to be protected union activity?</p> <p>14 A. Of the pages that I can read everything on it</p> <p>15 clearly, no. There's a number of pages, quite a</p> <p>16 few, where I can't read everything.</p> <p>17 Q. It's almost a third of them, I'm sure.</p> <p>18 I'm going to identify for the record, if you</p> <p>19 will confirm for me, the ones -- that one, could you</p> <p>20 read that? You are better -- I'm not trying to talk</p> <p>21 you into it. I just couldn't read it.</p> <p>22 Okay. You could read a little, is what you're</p> <p>23 saying?</p> <p>24 A. I can make out some words.</p> <p>25 Q. Fair enough. You are entitled to read the</p>
<p style="text-align: right;">Page 598</p> <p>1 whole thing. The same thing on this one. But it is</p> <p>2 totally up to you. If you can read that, that is</p> <p>3 great.</p> <p>4 Okay. I think that's the only one. You can</p> <p>5 leave that one up if you can read it.</p> <p>6 A. Yeah, I can make that one out.</p> <p>7 Q. So we want to identify for the record the ones</p> <p>8 that you have marked yellow. And when you marked it</p> <p>9 yellow --</p> <p>10 THE COURT: We can file this on the docket</p> <p>11 if you want to, just to save time.</p> <p>12 MR. PRYOR: Thank you. We will do that.</p> <p>13 Let me mark this, then, as Exhibit 15-A.</p> <p>14 THE COURT: Any objection to 15-A?</p> <p>15 MR. PRYOR: Move for the admission of</p> <p>16 15-A.</p> <p>17 MR. McKEEBY: No objection.</p> <p>18 MR. GREENFIELD: No objection, your Honor.</p> <p>19 THE COURT: Okay. I will admit 15-A.</p> <p>20 (The referred-to document was admitted</p> <p>21 into evidence as Plaintiff's Exhibit 15-A.)</p> <p>22 MR. PRYOR: I will hand this to the Court</p> <p>23 so I don't walk away with it.</p> <p>24 THE COURT: Thank you.</p> <p>25 We will color scan it.</p>	<p style="text-align: right;">Page 599</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. Ma'am, let's take a look at Exhibit 6 and --</p> <p>3 MR. PRYOR: I'm sorry. It is not Exhibit</p> <p>4 6. I told you guys the wrong number.</p> <p>5 106, Counsel.</p> <p>6 BY MR. PRYOR:</p> <p>7 Q. I'm only going to show you two pages of that.</p> <p>8 MR. GREENFIELD: I'm sorry, Counsel, 106,</p> <p>9 not 6?</p> <p>10 MR. PRYOR: 106, pages 5712 through -14.</p> <p>11 MR. McKEEBY: Your Honor, 106 is not</p> <p>12 listed.</p> <p>13 MR. PRYOR: Okay. I can show you what it</p> <p>14 is.</p> <p>15 May we approach, Judge?</p> <p>16 THE COURT: You may.</p> <p>17 (Thereupon, the following proceedings were</p> <p>18 had at sidebar:)</p> <p>19 MR. PRYOR: This was -- this should have</p> <p>20 been listed for Mr. Schneider, who is testifying</p> <p>21 tomorrow. But there are two pages of it, a</p> <p>22 collection of information put together by Southwest</p> <p>23 during its investigation.</p> <p>24 There are two pages of it, or three pages</p> <p>25 of it are communications from Audrey Stone to</p>

<p style="text-align: right;">Page 600</p> <p>1 Charlene telling her about the right to work. It is 2 one of the things that she complained about. 3 And also, she testified she didn't send 4 things to Charlene. It goes to both of those 5 issues. It is not a surprise to them; they have it 6 outlined. I don't know why it wasn't on our list. 7 I apologize. 8 THE COURT: Understood. 9 Let me propose and ask their response. 10 Any objection to those two pages coming in 11 conditionally and then you pull it up with Schneider 12 tomorrow? 13 MR. PRYOR: Yes. 14 MR. McKEEBY: No objection. 15 MR. GREENFIELD: Can I see the two pages? 16 MR. PRYOR: I'm going to give this to the 17 witness, too, those pages. 18 What page number? Is 5712, 13 and 14? Is 19 that -- 20 MR. PRYOR: This will be 106A, I guess. 21 THE COURT: We can conditionally admit 22 106, those pages, tomorrow. It will all connect up. 23 MR. PRYOR: I will just show her these two 24 pages. 25 THE COURT: Sounds great.</p>	<p style="text-align: right;">Page 601</p> <p>1 (Thereupon, the sidebar was concluded and 2 the following proceedings were held in open 3 court:) 4 THE COURT: All right. So I'm admitting 5 pages 5712, 5713, and 5714 of document number 106. 6 (The referred-to document was admitted 7 into evidence as Plaintiff's Exhibit 106-A.) 8 THE COURT: You can show them to the 9 witness. 10 It is conditionally admitted. We will 11 connect it up tomorrow. 12 BY MR. PRYOR: 13 Q. Can you identify this page of Exhibit 106, 14 SWA 5712, as a communication you sent as president 15 of the Union to Charlene Carter regarding taking 16 action on the national right-to-work legislation? 17 A. It was a communication sent by our COPE 18 committee. I was the chairperson and Matt Hettich 19 was my co-chairperson. And it was sent to all 20 flight attendants whose email addresses we had on 21 file, including Charlene Carter. 22 Q. And let's see the next page so you can 23 identify, that is part of the communication that was 24 sent to Charlene? 25 A. Yes.</p>
<p style="text-align: right;">Page 602</p> <p>1 Q. And in fact, at the top, it says, "Hi. My name 2 is Charlene Carter, and I'm a member of the 3 Transport Workers Union, Local 556." 4 And it goes on to tell her what to say in order 5 to object to this right-to-work law, correct? 6 A. Yes. 7 Q. And let's just look at the next page to make 8 sure you have identified the entire communication. 9 And there is your picture at the end? 10 A. Yes. 11 Q. Okay. Thank you. 12 Did you speak to Sonya Lacore at any time about 13 your complaint against Ms. Carter? 14 A. No. 15 MR. PRYOR: Your Honor, may I approach to 16 provide the witness a document to refresh her 17 recollection? 18 THE COURT: Yes, you may. 19 MR. PRYOR: It's not on the point I just 20 asked about. 21 THE COURT: Okay. Then you need to set a 22 predicate first. 23 MR. PRYOR: Okay. 24 BY MR. PRYOR: 25 Q. Ma'am, were you interviewed by Southwest</p>	<p style="text-align: right;">Page 603</p> <p>1 Airlines after you made your complaint against 2 Charlene? 3 A. Yes. 4 Q. And did you, during that interview, state that 5 Charlene was anti-union? 6 A. When they asked me questions about who she was, 7 what kind of relationship I had with her, I said 8 that she had been very outspoken about my 9 administration and had opted out of our union. 10 I don't know that I used the word "anti-union," 11 but I did say she had been outspoken against our 12 administration. 13 MR. PRYOR: Your Honor, may I now approach 14 the witness to refresh her recollection? 15 THE COURT: Yes. 16 MR. PRYOR: Exhibit 39. 17 BY MR. PRYOR: 18 Q. I'll hand you a copy of Exhibit 39. 19 I don't think it's in evidence, but I'm just 20 identifying it for the record. 21 I'll ask you to go to the third page. 22 See where it says, "What do you think would 23 cause" -- 24 MS. GREEN: Objection, your Honor. He's 25 reading from a document that is not in evidence.</p>

<p style="text-align: right;">Page 604</p> <p>1 THE COURT: Sustained.</p> <p>2 MR. PRYOR: Can I approach to identify?</p> <p>3 THE COURT: You may.</p> <p>4 BY MR. PRYOR:</p> <p>5 Q. This page right here, do you see that? Does</p> <p>6 that refresh your recollection as to whether or not</p> <p>7 you said she was anti-union?</p> <p>8 MR. GREENFIELD: I'm sorry. Counsel, can</p> <p>9 you please show me the part of the exhibit that you</p> <p>10 are reading from?</p> <p>11 Can you please show me part of the</p> <p>12 document so I can review it?</p> <p>13 The part of the document that you are</p> <p>14 looking at.</p> <p>15 Thank you.</p> <p>16 MR. PRYOR: The third page.</p> <p>17 MR. GREENFIELD: Thank you.</p> <p>18 BY MR. PRYOR:</p> <p>19 Q. Does that refresh your recollection now that</p> <p>20 you told Southwest Airlines that Ms. Carter was</p> <p>21 anti-union?</p> <p>22 MR. GREENFIELD: Objection, your Honor.</p> <p>23 Counsel is testifying.</p> <p>24 THE COURT: I will allow the question.</p> <p>25 THE WITNESS: I don't recall using those</p>	<p style="text-align: right;">Page 605</p> <p>1 exact words, and there's other things in here that</p> <p>2 it says I said that are not accurate.</p> <p>3 BY MR. PRYOR:</p> <p>4 Q. Let's go to the second page of that document</p> <p>5 and see if it refreshes your recollection of the</p> <p>6 document.</p> <p>7 I have to be careful how I do this.</p> <p>8 MR. GREENFIELD: Counsel, can you please</p> <p>9 show me the section?</p> <p>10 MR. PRYOR: The second page.</p> <p>11 MR. GREENFIELD: Thank you.</p> <p>12 THE COURT: And we can mute this from the</p> <p>13 jury's screen if you want to show it on your screen.</p> <p>14 It's up to you.</p> <p>15 We can mute the jury screen so that we are</p> <p>16 just showing the document --</p> <p>17 MR. PRYOR: They have it but that is fine.</p> <p>18 THE COURT: Just so everyone sees where</p> <p>19 you are at, if that's easier.</p> <p>20 MR. PRYOR: Sure. Let's do that.</p> <p>21 THE COURT: Okay. Jury screens are muted.</p> <p>22 You can publish.</p> <p>23 MR. HILL: What exhibit is it?</p> <p>24 MR. PRYOR: It is the second page of</p> <p>25 Exhibit 39.</p>
<p style="text-align: right;">Page 606</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. Ma'am, does it refresh your recollection that</p> <p>3 not only did you say she's anti-union, you said</p> <p>4 she's very anti-union.</p> <p>5 MR. GREENFIELD: Objection, your Honor.</p> <p>6 Counsel is again reading from a document not in</p> <p>7 evidence.</p> <p>8 THE COURT: Sustained. I will strike that</p> <p>9 question.</p> <p>10 BY MR. PRYOR:</p> <p>11 Q. Does it refresh your recollection regarding</p> <p>12 what you said as to her union activity?</p> <p>13 A. I have already stated that I know I answered</p> <p>14 questions that she was not supportive, had for a</p> <p>15 long time not been supportive of the union, was</p> <p>16 against our administration. I don't recall the</p> <p>17 exact words I used. And, again, there are --</p> <p>18 Q. Let me try it again.</p> <p>19 Do you recall telling them not once, twice, but</p> <p>20 multiple times that she's anti-union?</p> <p>21 MR. GREENFIELD: Objection, Your Honor.</p> <p>22 Counsel is continuing to --</p> <p>23 MR. PRYOR: I'm asking for her</p> <p>24 recollection now.</p> <p>25</p>	<p style="text-align: right;">Page 607</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. Has your recollection been refreshed as to</p> <p>3 whether or not you told Southwest Airlines</p> <p>4 repeatedly that Charlene Carter was --</p> <p>5 MR. GREENFIELD: Objection, your Honor.</p> <p>6 Asked and answered as well.</p> <p>7 THE COURT: You've got to finish your</p> <p>8 question first, and then give the objection, and</p> <p>9 then I'll rule on it.</p> <p>10 So ask your question.</p> <p>11 BY MR. PRYOR:</p> <p>12 Q. Does it refresh your recollection, after</p> <p>13 looking at this document -- by the way, what is this</p> <p>14 document?</p> <p>15 A. It looks like it is a Southwest Airlines</p> <p>16 document of someone that they had taking notes of</p> <p>17 the phone call.</p> <p>18 Q. And does it refresh your recollection that you</p> <p>19 repeatedly told them, the reason Charlene was --</p> <p>20 MR. GREENFIELD: Objection, your Honor.</p> <p>21 Again, he's talking --</p> <p>22 THE COURT: You have got to let him</p> <p>23 finish.</p> <p>24 BY MR. PRYOR:</p> <p>25 Q. -- was sending these communications to you was</p>

<p style="text-align: right;">Page 608</p> <p>1 because she was anti-union?</p> <p>2 THE COURT: You can answer.</p> <p>3 THE WITNESS: I don't know what words I</p> <p>4 used. I know I described her as not being friendly</p> <p>5 towards the union administration for a long time.</p> <p>6 BY MR. PRYOR:</p> <p>7 Q. And you explained that that's why you</p> <p>8 understood she sent you these messages, true?</p> <p>9 A. No. I actually answered -- when I was</p> <p>10 repeatedly asked why she would have sent me the</p> <p>11 videos, I repeatedly said, I don't -- I don't know</p> <p>12 why I was asked about my opinions on abortion, if I</p> <p>13 ever had conversations with her about it, and I</p> <p>14 stated over and over, I don't know. I have not ever</p> <p>15 had conversations.</p> <p>16 Q. It is on the screen. Let's look on this</p> <p>17 document.</p> <p>18 Are you telling me that when you were asked,</p> <p>19 "What do you think would cause her to send the</p> <p>20 message," you didn't repeatedly say, "She's</p> <p>21 anti-union"?</p> <p>22 MR. GREENFIELD: Objection, your Honor.</p> <p>23 THE COURT: Sustained.</p> <p>24 BY MR. PRYOR:</p> <p>25 Q. Does it refresh your recollection that, in</p>	<p style="text-align: right;">Page 609</p> <p>1 fact, what you told Southwest Airlines was the</p> <p>2 reason she sent you the message is that she's --</p> <p>3 THE COURT: Counsel, this document is not</p> <p>4 in the record, so we can't pull from it.</p> <p>5 MR. PRYOR: I'm sorry?</p> <p>6 THE COURT: This document is not in</p> <p>7 evidence, so we can't pull from it. It can only be</p> <p>8 used to refresh.</p> <p>9 MR. PRYOR: I thought that was the way I</p> <p>10 phrased my question. Did I not?</p> <p>11 THE COURT: But then you started talking</p> <p>12 about specifics in the document. That's where we</p> <p>13 cross the line.</p> <p>14 MR. PRYOR: I will not refer to the</p> <p>15 document.</p> <p>16 BY MR. PRYOR:</p> <p>17 Q. You have now reviewed a portion of this</p> <p>18 document, correct?</p> <p>19 A. Yes.</p> <p>20 Q. Does this refresh your recollection that when</p> <p>21 you were asked, "Why do you think Charlene sent</p> <p>22 these messages to you," your answer was --</p> <p>23 MR. GREENFIELD: Objection.</p> <p>24 BY MR. PRYOR:</p> <p>25 Q. -- "She was anti-union"?</p>
<p style="text-align: right;">Page 610</p> <p>1 MR. GREENFIELD: Objection, your Honor.</p> <p>2 It is asking what she was asked based on the</p> <p>3 document.</p> <p>4 THE COURT: Sustained.</p> <p>5 MR. PRYOR: Another way to do it I'm going</p> <p>6 to try. I don't mean to step on the ruling.</p> <p>7 BY MR. PRYOR:</p> <p>8 Q. Ma'am, has your recollection been refreshed</p> <p>9 that you told Southwest Airlines the reason you</p> <p>10 received these messages from Charlene Carter is</p> <p>11 because she's anti-union?</p> <p>12 MR. GREENFIELD: Objection, your Honor.</p> <p>13 Counsel is again testifying about --</p> <p>14 THE COURT: Sustained.</p> <p>15 Do we need a sidebar?</p> <p>16 MR. PRYOR: Yeah, I do.</p> <p>17 (Thereupon, the following proceedings were</p> <p>18 had at sidebar:)</p> <p>19 MR. PRYOR: I don't know where I'm messing</p> <p>20 up.</p> <p>21 THE COURT: Well, so I think the thing is</p> <p>22 you can't lead with a refresh. If you are reading a</p> <p>23 refresh, you are pulling from the document itself.</p> <p>24 That is not evidence.</p> <p>25 MR. PRYOR: I will ask it not leading.</p>	<p style="text-align: right;">Page 611</p> <p>1 THE COURT: What did you tell them?</p> <p>2 But the other problem is, this document</p> <p>3 was Southwest's notes and not hers, so she can fight</p> <p>4 this all day long, like she has.</p> <p>5 You have to ask open-ended questions:</p> <p>6 Does this refresh what you told them? And the</p> <p>7 answer it is, it is.</p> <p>8 MR. PRYOR: Thank you. I wish I</p> <p>9 understood the rules of evidence. I said refreshed</p> <p>10 and used my time.</p> <p>11 THE COURT: It is all good.</p> <p>12 MR. PRYOR: Thank you.</p> <p>13 (Thereupon, the sidebar was concluded and</p> <p>14 the following proceedings were held in open</p> <p>15 court:)</p> <p>16 THE COURT: You can proceed.</p> <p>17 BY MR. PRYOR:</p> <p>18 Q. Ma'am, has your recollection been refreshed as</p> <p>19 to what you told Southwest Airlines regarding the</p> <p>20 reason Ms. Carter sent you the messages that you</p> <p>21 were complaining about?</p> <p>22 A. As I have already stated, I don't know what my</p> <p>23 exact words were.</p> <p>24 I answered questions about her long-time</p> <p>25 history of being against the union and expressing</p>

<p style="text-align: right;">Page 612</p> <p>1 that and not being happy with our administration. 2 Q. Is it fair to say that you did not read most of 3 the messages that were sent to you from 2015 to 2017 4 from Ms. Carter? 5 A. At the time I had this phone call? 6 Q. No. From 2015 to 2017. 7 I'm not sure what phone call. 8 Are you talking about when you looked at the 9 messages on your phone? 10 A. No. You were just asking me about the notes 11 from this phone call I had with Southwest. 12 Q. Right. I'm not asking you about this document. 13 I don't know if there is a way to do it. I 14 have difficulty with that. 15 So my question to you is, is it fair to say 16 that you did not read most of the messages you 17 received from 2015 to 2017 from Ms. Carter? 18 A. There were many of them that I had not looked 19 at prior to me reporting the last -- the videos to 20 Southwest. 21 Q. Are you able to tell us if it's most or not 22 most that you didn't read? 23 A. I don't know how many. There were so many 24 messages, and I did not keep track of what I read. 25 Q. Did you tell Southwest Airlines that you didn't</p>	<p style="text-align: right;">Page 613</p> <p>1 read them? 2 A. I know I told them that there were -- that 3 there were messages I had not read. 4 Q. Did you tell Southwest Airlines that you wanted 5 them to keep it a secret that you, as Union 6 president, were reporting a union member or a union 7 objector? 8 A. Keep it a secret? No. 9 Any report that goes to Southwest Airlines, 10 however, is supposed to be handled in a 11 professional, confidential manner when they are 12 doing an investigation. 13 Q. Did you ask Southwest Airlines to keep that 14 information from flight attendants? 15 MR. GREENFIELD: Objection, your Honor, 16 asked and answered. 17 THE COURT: Sustained. 18 BY MR. PRYOR: 19 Q. And did you talk to Southwest Airlines about 20 what you believed was a threat from another flight 21 attendant when you were interviewed about your 22 complaint against Ms. Carter? 23 If you are looking to refresh your 24 recollection, it's the last two pages. 25 A. Yes.</p>
<p style="text-align: right;">Page 614</p> <p>1 Q. And did you tell them that it was determined 2 that there was -- those were not legitimate 3 screenshots, that those were false screenshots, the 4 complaint you had against the flight attendant? 5 A. No. 6 Q. If you look at the last page, does that refresh 7 your recollection? 8 A. I didn't tell them they were false screenshots. 9 I didn't report those. 10 And these notes refer to me saying Jeanna 11 Jackson and Mike Hafner, and that was not who the 12 screenshot in question was -- was discussed. That 13 is incorrect. 14 Q. Did you tell Southwest Airlines that your base 15 manager pulled you aside and said it was determined 16 that there were false screenshots? 17 A. Yes, the base manager said that. 18 Q. Okay. And you have evidence to say the base 19 manager was wrong? 20 MR. GREENFIELD: Objection, your Honor. 21 The testimony calls for hearsay. 22 THE COURT: I will allow her to answer 23 only if she has personal knowledge. 24 THE WITNESS: I only know what was 25 reported to me by my base manager.</p>	<p style="text-align: right;">Page 615</p> <p>1 BY MR. PRYOR: 2 Q. And your base manager told you that that 3 complaint you were making was based upon a false 4 screenshot, true? 5 A. I did not make that complaint. 6 Q. Well, what were you being told? Why were you 7 talking to the base manager about it if it wasn't 8 your complaint? 9 I thought it was supposed to be confidential 10 when people made complaints. 11 MR. McKEEBY: Objection, compound. 12 THE COURT: Can you split it up? 13 MR. PRYOR: Sure. 14 BY MR. PRYOR: 15 Q. Did you just tell us a few minutes ago that 16 when somebody makes a complaint, it is supposed to 17 be confidential? 18 A. Yes. 19 Q. And did you talk to a base manager about 20 someone else's complaint about a flight attendant 21 with false screenshots? 22 A. The base manager approached me because that 23 screenshot went viral. It was posted on other 24 flight attendant airline pages. It was all over the 25 place. Everyone was talking about it. And I was</p>

<p style="text-align: right;">Page 616</p> <p>1 specifically named in the post.</p> <p>2 So my base manager pulled me aside to say that</p> <p>3 the investigation had been closed out and that they</p> <p>4 did not believe that it was a -- not a real</p> <p>5 conversation, that it had been generated.</p> <p>6 Q. All right. Let's look at Exhibit 65.</p> <p>7 I'm going to hand you a copy.</p> <p>8 THE COURT: Are you moving for this?</p> <p>9 MR. PRYOR: Yes, I move for the admission</p> <p>10 of 65.</p> <p>11 THE COURT: Okay. Morning objections.</p> <p>12 Okay. I have overruled those, so it is</p> <p>13 admitted.</p> <p>14 You can publish.</p> <p>15 (The referred-to document was admitted</p> <p>16 into evidence as Plaintiff's Exhibit 65.)</p> <p>17 BY MR. PRYOR:</p> <p>18 Q. I have the same question about this I did about</p> <p>19 Exhibit 15.</p> <p>20 Is there anything in here that doesn't relate</p> <p>21 to Ms. Carter raising her complaints about her</p> <p>22 union?</p> <p>23 If there are, tell me the page and we will talk</p> <p>24 about it.</p> <p>25 MR. GREENFIELD: Objection, your Honor.</p>	<p style="text-align: right;">Page 617</p> <p>1 There is no evidence that this is part of a</p> <p>2 complaint.</p> <p>3 MR. PRYOR: Have I got the wrong exhibit?</p> <p>4 I thought we did 66 yesterday.</p> <p>5 THE COURT: You did 66 yesterday, and we</p> <p>6 are on 65 today.</p> <p>7 MR. PRYOR: This has other items in it</p> <p>8 that 66 does not.</p> <p>9 THE COURT: Understood.</p> <p>10 You can ask.</p> <p>11 BY MR. PRYOR:</p> <p>12 Q. Is there anything in Exhibit 65 that is not</p> <p>13 Ms. Carter talking about her complaints about her</p> <p>14 union?</p> <p>15 MR. GREENFIELD: Again, objection, your</p> <p>16 Honor.</p> <p>17 There's been no foundation that this is</p> <p>18 any sort of complaint.</p> <p>19 THE COURT: I think it is an okay question</p> <p>20 for him to ask.</p> <p>21 THE WITNESS: I don't know what this --</p> <p>22 what some of this is. Some of this I haven't seen.</p> <p>23 BY MR. PRYOR:</p> <p>24 Q. Ma'am, you have to bring the microphone to your</p> <p>25 mouth for me.</p>
<p style="text-align: right;">Page 618</p> <p>1 A. I don't know what some of this is. I have not</p> <p>2 seen a lot of this ever before.</p> <p>3 Q. Okay. The first two pages we have talked about</p> <p>4 before.</p> <p>5 She's complaining about her union and what she</p> <p>6 thinks is them supporting murder by supporting a</p> <p>7 Planned Parenthood March.</p> <p>8 Do you see those two?</p> <p>9 A. Yes.</p> <p>10 Q. And that is her complaining about her union,</p> <p>11 correct?</p> <p>12 A. I disagree that what she sent was complaining</p> <p>13 about her union.</p> <p>14 Q. So when it says, "TWU, AFL-CIO, and 556 are</p> <p>15 supporting this murder," that's not her -- that</p> <p>16 sounds like a pretty strong complaint about her</p> <p>17 union.</p> <p>18 MR. GREENFIELD: Objection, your Honor. I</p> <p>19 don't know where counsel is reading from that.</p> <p>20 MR. PRYOR: The first page of the exhibit.</p> <p>21 MR. GREENFIELD: Thank you.</p> <p>22 MR. HILL: I just highlighted it.</p> <p>23 MR. PRYOR: Okay. It's on the screen.</p> <p>24 MR. GREENFIELD: Thank you.</p> <p>25 THE WITNESS: I don't believe we were</p>	<p style="text-align: right;">Page 619</p> <p>1 supporting murders or the images depicted in that</p> <p>2 video.</p> <p>3 BY MR. PRYOR:</p> <p>4 Q. Union members are allowed to have a difference</p> <p>5 of opinion, objectors are allowed to have a</p> <p>6 difference of opinion and raise those, correct?</p> <p>7 A. Yes.</p> <p>8 Q. I didn't ask you if you agreed with her. We</p> <p>9 know you don't. But it doesn't change the fact that</p> <p>10 she's complaining about her union, correct?</p> <p>11 A. Again, I don't believe that's complaining about</p> <p>12 the union in that depiction.</p> <p>13 Q. So just to make sure, where it says, "The union</p> <p>14 is supporting murder," that is not a complaint about</p> <p>15 the union?</p> <p>16 MR. McKEEBY: Objection, asked and</p> <p>17 answered.</p> <p>18 THE COURT: Sustained.</p> <p>19 BY MR. PRYOR:</p> <p>20 Q. Let's go to the third page.</p> <p>21 And this is the anatomically correct hats and</p> <p>22 she's complaining about the union supporting this</p> <p>23 and using our money for this, stealing from our dues</p> <p>24 for things like this.</p> <p>25 That's Charlene Carter complaining about her</p>

<p style="text-align: right;">Page 620</p> <p>1 union, correct?</p> <p>2 A. What she wrote is, yes.</p> <p>3 Q. What she wrote what?</p> <p>4 A. What she wrote, yes.</p> <p>5 Q. Okay. The picture, the picture doesn't</p> <p>6 exemplify her complaint about what her union did?</p> <p>7 A. No, I don't believe it does.</p> <p>8 Q. So she's saying, These are the kind of things</p> <p>9 that were at the March that you were supporting, and</p> <p>10 here is a picture of it, and you don't think that is</p> <p>11 related to her union activity and actions should be</p> <p>12 taken against a union member that would do something</p> <p>13 like that?</p> <p>14 MR. McKEEBY: Objection, asked and</p> <p>15 answered. Compound.</p> <p>16 THE COURT: Sustained.</p> <p>17 BY MR. PRYOR:</p> <p>18 Q. Do you believe the pictures are part of her</p> <p>19 union activity or not?</p> <p>20 MR. GREENFIELD: Objection, your Honor,</p> <p>21 asked and answered.</p> <p>22 THE COURT: Sustained.</p> <p>23 MR. PRYOR: Your Honor, she said the</p> <p>24 words. I haven't been able to get her testimony on</p> <p>25 the pictures.</p>	<p style="text-align: right;">Page 621</p> <p>1 THE COURT: I thought she answered that.</p> <p>2 MR. PRYOR: Okay.</p> <p>3 BY MR. PRYOR:</p> <p>4 Q. Is there anything else in this document that</p> <p>5 you looked at that you have seen before?</p> <p>6 I handed you a copy of it. You can flip</p> <p>7 through it.</p> <p>8 A. After the fourth page, I don't know what any of</p> <p>9 this is, and it is not things I recall ever seeing</p> <p>10 before.</p> <p>11 Q. Okay. Let's look at Exhibit 34.</p> <p>12 MR. PRYOR: I move for the admission of</p> <p>13 Exhibit 34.</p> <p>14 THE COURT: All right. 34.</p> <p>15 Morning objections from Union.</p> <p>16 MR. GREENFIELD: Yes, sir.</p> <p>17 THE COURT: Okay. I've overruled those,</p> <p>18 so I will allow 34 in.</p> <p>19 You can publish.</p> <p>20 MR. McKEEBY: I'm sorry, was 65 admitted?</p> <p>21 THE COURT: 65 is admitted --</p> <p>22 MR. McKEEBY: Thank you, your Honor.</p> <p>23 THE COURT: -- and now 34 is admitted.</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 622</p> <p>1 (The referred-to document was admitted</p> <p>2 into evidence as Plaintiff's Exhibit 34.)</p> <p>3 BY MR. PRYOR:</p> <p>4 Q. I direct your attention to the last page of</p> <p>5 Exhibit 34.</p> <p>6 First of all, what is Exhibit 34? That's Unity</p> <p>7 Magazine.</p> <p>8 A. It's a communication that is published on</p> <p>9 behalf of the union by our communications</p> <p>10 department, usually four times a year. Or at that</p> <p>11 time, four times a year.</p> <p>12 MR. PRYOR: Let's go to the last page.</p> <p>13 BY MR. PRYOR:</p> <p>14 Q. Do you see where it says, "Yippee ki-yay, and I</p> <p>15 will see you online"?</p> <p>16 Is that what you wrote?</p> <p>17 A. Yes.</p> <p>18 MR. PRYOR: We move for the admission of</p> <p>19 21-Q, an unredacted version.</p> <p>20 While you are looking, also 21-P.</p> <p>21 THE COURT: All right. I have -- so I</p> <p>22 have 21 as a whole. I know the objections on 21 as</p> <p>23 a whole.</p> <p>24 MR. PRYOR: There is an updated exhibit</p> <p>25 list, your Honor, that has 21-A through it looks</p>	<p style="text-align: right;">Page 623</p> <p>1 like X.</p> <p>2 This is a specific couple of pages.</p> <p>3 THE COURT: Let's sidebar right quick.</p> <p>4 (Thereupon, the following proceedings were</p> <p>5 had at sidebar:)</p> <p>6 MR. PRYOR: This says email 21-A through E</p> <p>7 on it, so I don't have --</p> <p>8 We are trying to keep the rest of it</p> <p>9 secret. Now it is out. I have no idea why.</p> <p>10 MR. McKEEBY: I don't know what they are.</p> <p>11 MR. PRYOR: You don't?</p> <p>12 THE COURT: Subparts of 21.</p> <p>13 MR. McKEEBY: Show them to me. I just</p> <p>14 don't remember right now.</p> <p>15 MR. PRYOR: 21 is a bunch of emails that</p> <p>16 are related to the investigation.</p> <p>17 THE COURT: Sure.</p> <p>18 MR. PRYOR: These are a couple of emails</p> <p>19 that she's on, she's not on everything. We</p> <p>20 divided --</p> <p>21 THE COURT: She can't sponsor everything.</p> <p>22 MR. PRYOR: I'm only offering things she</p> <p>23 can sponsor. She's on the emails.</p> <p>24 THE COURT: I recall 21 globally, that we</p> <p>25 talked about 21, and the issue was limiting</p>

<p style="text-align: right;">Page 624</p> <p>1 instruction. This comes in as to Union, not 2 Southwest. I know there are other objections that I 3 overruled. 4 MR. PRYOR: If you haven't seen the 5 document, it is -- you have seen it. You just don't 6 know which one I'm referring to. 7 It is about Audrey Stone being included on 8 Brian Talburt complaints about Jeanna Jackson. 9 MR. McKEEBY: I object. 10 THE COURT: Can we agree all 21 subparts, 11 we will do the same thing, right? 12 I'm going to overrule the Union objections 13 but let him -- 14 MR. GREENFIELD: I forwarded the Bates 15 numbers. 16 MR. PRYOR: Sure. I will get that to you. 17 I'm thinking for a second what else is in it. 18 Well, if something gets offered and I 19 think that the running objection doesn't apply or 20 the instruction, I will say something. 21 The fact that Brian Talburt brings a 22 complaint against Jeanna Jackson, I'm on board with 23 this because I understand -- I understand the 24 ruling. 25 I will not talk about what actually</p>	<p style="text-align: right;">Page 625</p> <p>1 happened to Ms. Jackson. These emails don't say. 2 A limiting instruction is not necessarily 3 in my view. 4 THE COURT: Okay. I will give the 5 colloquial instruction on all of 21. I'm admitting 6 21 -- 7 MR. PRYOR: O and P right now. There may 8 be -- 9 THE COURT: Right now I'm admitting O and 10 P. 11 Say it again. 12 MR. PRYOR: I will. 13 (Thereupon, the sidebar was concluded and 14 the following proceedings were held in open 15 court:) 16 MR. PRYOR: Your Honor, I have to come 17 back up. 18 (Thereupon, the following proceedings were 19 had at sidebar:) 20 MR. GILLIAM: Your Honor, my co-counsel 21 wants to use a document that you ordered to be 22 sealed. 23 MR. GREENFIELD: I can't hear. 24 MR. GILLIAM: We removed the names on the 25 emails. So he's going to reference a document that</p>
<p style="text-align: right;">Page 626</p> <p>1 you ordered to be redacted as a result of our motion 2 to file under seal. And just the addresses, in some 3 cases, the addresses identify who the recipient was 4 or who is cc'd. 5 And so I think Mr. Pryor would like to use 6 the document with that unredacted, even though you 7 ordered it to be redacted. He wants to use the 8 unredacted version to help identify who the 9 recipients are. 10 THE COURT: Okay. I can't remember the 11 redaction order. 12 Can you refresh my recollection on what we 13 ordered on redactions? 14 MR. GILLIAM: Yes. It was mainly 15 addresses -- 16 THE COURT: Sure. 17 MR. GILLIAM: -- of opposing -- 18 MR. McKEEBY: Whose addresses? 19 MR. GILLIAM: Brett Nevarez's address. 20 MR. McKEEBY: Maybe not the best example. 21 Who else? 22 MR. GILLIAM: Well, I mean, he's one of 23 the recipients. 24 MR. McKEEBY: I frankly don't care about 25 his address.</p>	<p style="text-align: right;">Page 627</p> <p>1 Generally, I don't think it is appropriate 2 for Southwest Airlines employees' addresses to be in 3 the record. 4 MR. GILLIAM: The main thing is we want to 5 establish who the recipients were. 6 THE COURT: We can stipulate one of the 7 recipients was Nevarez. Do we have to reveal the 8 email address to -- 9 MR. McKEEBY: I can stipulate to it. 10 THE COURT: Like why reveal the email? 11 We all know it is Brett Nevarez. We can 12 stipulate it was Brett Nevarez. 13 You can say, The parties have stipulated 14 it was Brett Nevarez. 15 MR. GILLIAM: He's probably not the only 16 example. 17 MR. PRYOR: It is one thing, the email. 18 What was the basis for marking out names? 19 MR. GILLIAM: Well, in many cases, the 20 email address is the only thing that is there. 21 THE COURT: Don't -- 22 MR. GILLIAM: Other examples. 23 MR. PRYOR: The ones that got unredacted, 24 that wasn't -- 25 MR. GILLIAM: To clarify, Brett Nevarez</p>

<p style="text-align: right;">Page 628</p> <p>1 isn't the only example. We also have some Southwest 2 management employees, Julie O'Grady, Mike Sims. 3 They are WNCO addresses, email addresses. 4 It might make it easier if Mr. Pryor would 5 show Mr. McKeeby and Mr. Greenfield and your Honor 6 the document. 7 THE COURT: For the first one, can we 8 agree on the stipulation going forward, maybe we try 9 to agree in advance to the jury? There are five 10 stipulations. We added to the 15 that say these 11 exhibits went to these people. We are not showing 12 the people. 13 MR. GREENFIELD: Can we make it clarified 14 on the stipulation that it was emailed to them, not 15 necessarily that they received it? Just because I 16 think there is a difference. 17 THE COURT: Sure. Emailed to this person. 18 MR. GREENFIELD: Yes. 19 THE COURT: That is fine. Go back and say 20 which one you are doing, and then say, The parties 21 have stipulated that this email was sent to Brett 22 Nevarez. And then I will give the limiting 23 instruction. 24 MR. PRYOR: I have no idea who it was. 25 MR. GILLIAM: You have the unredacted</p>	<p style="text-align: right;">Page 629</p> <p>1 version. Just don't use the unredacted. Use the 2 redacted. 3 MR. PRYOR: I'm not in charge of the 4 computer. 5 (Thereupon, the sidebar was concluded and 6 the following proceedings were held in open 7 court:) 8 THE COURT: Sorry about that. 9 Housekeeping. But I think we got a path forward. 10 Okay. So which one are you moving to 11 introduce into evidence? 12 MR. PRYOR: We would move for the 13 admission 21-Q. 14 Your Honor, the unredacted version of this 15 is -- has some changes to it. 16 I will come back up. 17 (Thereupon, the following proceedings were 18 had at sidebar:) 19 THE COURT: Kevin, move the jury monitors 20 right quick. They may already be. They are. 21 MR. PRYOR: If you look at the unredacted 22 version and then look at this, this is 23 incomprehensible. The unredacted version is -- that 24 is the same document, but I have had that issue 25 before.</p>
<p style="text-align: right;">Page 630</p> <p>1 This looks like the same document. 2 So I can't even question her, really, 3 about what it actually says. 4 THE COURT: It sounds like we need to take 5 a break and redact it again. 6 MR. PRYOR: Tell me what you would like. 7 Just pull off the personal email that -- redact the 8 letter K or the letter W, like we did there? 9 THE COURT: Let's take a quick break, you 10 can call in and check in, and we will redact it on 11 the fly. 12 (Thereupon, the sidebar was concluded and 13 the following proceedings were held in open 14 court:) 15 THE COURT: I'm calling a morning break so 16 we can do some redactions of the next exhibit. 17 I have asked for redacting personal email 18 addresses, just so that they are not floating around 19 in court records everywhere. 20 So we have got one problem with an exhibit 21 we need to redact on the fly. 22 I'm going to give y'all a morning break 23 right quick. Sorry that it's earlier than planned. 24 And then we will see if we can power through until 25 lunch after that.</p>	<p style="text-align: right;">Page 631</p> <p>1 So let's take a 10-minute break. So let's 2 be back here at 9:58. 3 Yesterday I said it was going to be a 4 five-minute break, when it was ten. 5 And then the same three instructions as 6 always. Only talk to your fellow jurors and court 7 personnel, don't talk to anyone about the case, and 8 don't do any research about the case. 9 We will see you in ten minutes. 10 THE COURT SECURITY OFFICER: All rise for 11 the jury. 12 (The jurors exited the courtroom.) 13 THE COURT: You can leave, just don't talk 14 to anyone about the case. 15 (The witness exited the courtroom.) 16 (Recess.) 17 THE COURT SECURITY OFFICER: All rise. 18 THE COURT: Before we bring in the jury, 19 are we good to go on 21-Q? 20 MR. PRYOR: There are several 21s, but -- 21 COURT REPORTER: I can't hear you. 22 THE COURT: Okay. 23 MR. PRYOR: My first exhibit will be 21-P. 24 THE COURT: 21-P is what you are going to 25 move for, and then I give them a global disclaimer</p>

<p style="text-align: right;">Page 632</p> <p>1 on all 21 subparts. They might have information 2 that is Southwest excluded, right? It's information 3 usable against the Union but not against Southwest. 4 Claims against the Union, not claims 5 against Southwest. I'm trying to keep it straight. 6 MR. GREENFIELD: Your Honor, I would just 7 like to see the final redacted copy or what it is 8 that is planning to be introduced. I haven't seen 9 it yet. 10 THE COURT: We've got the jury screens 11 muted. You can pull it up. 12 MR. PRYOR: He wants to make sure it is 13 done correctly. 14 THE COURT: I think it was personal emails 15 and addresses that we were redacting. 16 MR. GILLIAM: Show personal emails and 17 addresses on the screen, not to the jury. 18 MR. PRYOR: Keep going. It is RSP 66. 19 It's 21-P. 20 MR. HILL: This is 21-P. 21 MR. PRYOR: Oh, it is. Actually, not 22 mine, but okay, I will roll with it. 23 MR. GREENFIELD: Now, are those going to 24 remain redacted and we are stipulating that that is 25 who it was sent to?</p>	<p style="text-align: right;">Page 633</p> <p>1 MR. GILLIAM: That is my understanding. 2 MR. GREENFIELD: Okay. So it is going to 3 remain redacted to the jury, and your Honor is going 4 to make a stipulation that -- 5 THE COURT: So what will the jury see? 6 MR. GREENFIELD: That's what I'm trying to 7 find out. 8 MR. PRYOR: No. I object to that. The 9 jury needs to know who these people are when they 10 get this exhibit. And you can -- certainly you can 11 mark out Brian's, but Julie O'Grady, leave her name 12 in and then take out the "@"." The same thing with 13 B-R-E. The same thing with N-E-V-I-N-C. 14 I don't even think this needs to be 15 redacted at all. There is nothing top secret about 16 their email addresses. 17 THE COURT: Personal, yes, but WNCO, no, 18 right? 19 So personal email addresses, I ordered 20 this on the round of briefing and unsealing, so we 21 can't re-litigate that. 22 But so, for example, the AOL email 23 addresses, the MSN email address, and the Hotmail 24 address should be redacted. The WNCO, Julie O'Grady 25 should not be.</p>
<p style="text-align: right;">Page 634</p> <p>1 MR. PRYOR: Well, can we -- I'm sorry for 2 interrupting. 3 Can we leave out everything before the 4 "@" -- and leave in everything before at? That 5 doesn't tell their email address. 6 THE COURT: Are y'all okay with that? 7 MR. PRYOR: How does NEVINC -- 8 THE COURT: I'm getting -- hold on. I'm 9 getting head nods. 10 Are we okay with redacting the AOL? 11 MR. McKEEBY: Yes. 12 THE COURT: Sounds fair. 13 So can we redact the domain name? 14 MR. PRYOR: The MSN.com. 15 MR. HILL: Sure. That is not an immediate 16 process, but I can -- I can get back there and do 17 it. 18 MR. PRYOR: Your Honor, before making this 19 exhibit available to the jury, we will make sure 20 that the redactions are as you have indicated. 21 I would like to just roll on then. I will 22 ask questions, and she will have to accept my 23 representation as to who it is from. If not, I can 24 show her the unredacted version. 25 THE COURT: Or we can have the</p>	<p style="text-align: right;">Page 635</p> <p>1 stipulation. I think we are all in agreement on who 2 these folks are tied to, right? And we can give 3 stipulations back to the jury that say, On 4 Exhibit 21-P, the following people received the 5 email. 6 MR. PRYOR: Okay. I will state that I can 7 represent to her who sent it, who received it, who 8 is on the cc. And if I get it wrong, they can 9 certainly tell me. It's right in front of me. 10 THE COURT: Understood. 11 Okay. Are we ready to bring in the jury, 12 and then we will try to get a thumbs up whenever we 13 get a publishable redacted version with domain names 14 off? 15 MR. PRYOR: I will live with the old one 16 if I have to, just to get us moving. 17 THE COURT: Your point is well taken. 18 The prefix doesn't matter as much as 19 withholding some of the information. 20 Okay. Let's bring them in. 21 (The jurors entered the courtroom.) 22 THE COURT: All right. You can be 23 seated, and Mr. Pryor, you can continue. 24 MR. PRYOR: Thank you, your Honor. 25 We move for the admission of Exhibit 21-P.</p>

<p style="text-align: right;">Page 636</p> <p>1 THE COURT: 21-P.</p> <p>2 On the prior objections on 21-P, my ruling</p> <p>3 on those is, I'm overruling the Union objections on</p> <p>4 21-P, but I am sustaining an objection to an extent</p> <p>5 from Southwest.</p> <p>6 All of the 21 subparts that you are going</p> <p>7 to hear from are for use in the claims against the</p> <p>8 Union but not the claims against Southwest.</p> <p>9 That may matter for some exhibits more</p> <p>10 than others, but I will just say that globally.</p> <p>11 For 21 anything, those are useful for the</p> <p>12 claims against the Union, not useful for the claims</p> <p>13 against Southwest.</p> <p>14 I will let you publish it when y'all are</p> <p>15 ready when those redactions are completed. Just</p> <p>16 give me a thumbs when they are, and I will make sure</p> <p>17 I unmute the jury screens.</p> <p>18 MR. PRYOR: Thank you, your Honor.</p> <p>19 I'm going to trust my co-counsel to put it</p> <p>20 on the right screen. And if not, it's not. It's</p> <p>21 him.</p> <p>22 THE COURT: No pressure. No pressure.</p> <p>23 MR. PRYOR: 21-P, please.</p> <p>24 MR. GREENFIELD: Counsel, may I have a --</p> <p>25</p>	<p style="text-align: right;">Page 637</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. You have identified 21-P is an email that you</p> <p>3 are carbon-copied on from Brian Talburt.</p> <p>4 MR. GREENFIELD: Counsel, do you have a</p> <p>5 Bates number?</p> <p>6 MR. PRYOR: What is that?</p> <p>7 MR. GREENFIELD: A Bates number for the</p> <p>8 page?</p> <p>9 MR. PRYOR: It is 66, APP 66, and it</p> <p>10 pretty much goes from there.</p> <p>11 MR. GREENFIELD: I understand.</p> <p>12 May we conference, your Honor?</p> <p>13 THE COURT: Sure.</p> <p>14 (Thereupon, the following proceedings were</p> <p>15 had at sidebar:)</p> <p>16 MR. GILLIAM: I have a feeling --</p> <p>17 THE COURT: The summary judgment record</p> <p>18 filing.</p> <p>19 MR. GREENFIELD: And I don't have a</p> <p>20 problem with that.</p> <p>21 I just don't know where to look within 21</p> <p>22 because the Bates numbers for 21 don't align with</p> <p>23 this 21-P. They are different. Unless it is</p> <p>24 somewhere --</p> <p>25 MR. PRYOR: This is the way it is. RSP</p>
<p style="text-align: right;">Page 638</p> <p>1 66.</p> <p>2 MR. GREENFIELD: I understand.</p> <p>3 THE COURT: How am I going to keep the</p> <p>4 jury muted on all of 21?</p> <p>5 You show it to us, and then y'all can make</p> <p>6 your objection based on what you are seeing.</p> <p>7 MR. GREENFIELD: I'm just trying to</p> <p>8 understand where it is within 21. That is fine. I</p> <p>9 just want to know where it is in the document.</p> <p>10 THE COURT: Agreed.</p> <p>11 (Thereupon, the sidebar was concluded and</p> <p>12 the following proceedings were held in open</p> <p>13 court:)</p> <p>14 THE COURT: Okay. You can proceed.</p> <p>15 BY MR. PRYOR:</p> <p>16 Q. And you identified 21-P is an email that you</p> <p>17 received from Brian Talburt?</p> <p>18 A. Yes.</p> <p>19 Q. Let's look at the second page.</p> <p>20 And this is a post -- it's attaching a post</p> <p>21 from Jeanna Jackson, who is a union member?</p> <p>22 A. Yes.</p> <p>23 Q. And her post says, "This recall is happening,</p> <p>24 it is real and it is valid. If it wasn't, then all</p> <p>25 of the anti-recall people would not be fighting so</p>	<p style="text-align: right;">Page 639</p> <p>1 hard to discredit the recall or any or all of its</p> <p>2 supporters.</p> <p>3 "From here on out, please be careful what you</p> <p>4 post. The usual suspects are on the hunt to get</p> <p>5 anyone and everyone in trouble with the principal's</p> <p>6 office. There are tattletales on every group page</p> <p>7 who like to keep the pot stirred, so just please be</p> <p>8 mindful of the rules: No names, no initials, no</p> <p>9 name calling. We are all allowed to have a</p> <p>10 dissenting opinion from those who are in office at</p> <p>11 556. That is a fact.</p> <p>12 "I will continue to only post facts that have</p> <p>13 been confirmed and can be backed up. Come at me as</p> <p>14 you will, but we -- I/we have the truth on our side.</p> <p>15 Feel free to PM or text me any information you deem</p> <p>16 important. This recall is happening."</p> <p>17 That is what the document says, right?</p> <p>18 A. Yes.</p> <p>19 Q. Do you agree that's protected union activity?</p> <p>20 A. Yes.</p> <p>21 Q. All right. Let's go to the first page.</p> <p>22 By the way, she's saying she's predicting that</p> <p>23 your team is going to take posts and charge people,</p> <p>24 and so be careful.</p> <p>25 That is one of the things she's saying, right?</p>

<p style="text-align: right;">Page 640</p> <p>1 MR. GREENFIELD: Objection, your Honor. 2 Counsel is testifying as to what his inference from 3 the document is. 4 THE COURT: I will allow it. 5 THE WITNESS: She doesn't say "my team." 6 I think she used the words "the usual suspects." 7 And I don't know who she is referring to there. 8 BY MR. PRYOR: 9 Q. So who is she trying to recall? You, right? 10 A. I, along with most of the rest of the executive 11 board. 12 Q. So she's saying, the people that are trying to 13 discredit us is your team. 14 You don't see that when she's talking about the 15 people that she's trying to recall? 16 MR. GREENFIELD: Objection, your Honor. 17 Counsel is testifying as to his interpretation of 18 what the document says. 19 THE COURT: I will allow it. 20 THE WITNESS: She says "the usual 21 suspects." I don't know who she's speaking of 22 there. 23 BY MR. PRYOR: 24 Q. Okay. Let's just be clear here, it's a recall 25 petition against your administration, and you don't</p>	<p style="text-align: right;">Page 641</p> <p>1 know who she's talking about, fair? 2 A. Correct. 3 Q. Let's go to the first page of this exhibit and 4 see what is being said about this protected union 5 activity. 6 This is Brian, and he's sending this email to 7 Julie O'Grady at Southwest Airlines, okay? 8 You can accept that representation. Counsel 9 agree. 10 I see it is blacked out on your screen. 11 Do you accept that? 12 A. Yes. 13 Q. And it's carbon-copied to you and Brett 14 Nevarez. 15 I know that's blacked out, but I can represent 16 that to you as well. 17 Do you accept that? 18 A. Yes. 19 Q. So two officers of the union, both who are 20 subject of a recall, send a communication to 21 Southwest Airlines. 22 Who is Julie O'Grady? 23 A. I don't know what her title was. 24 Q. She's at Southwest Airlines, right? 25 A. I believe so, yes.</p>
<p style="text-align: right;">Page 642</p> <p>1 Q. Look down below. 2 Do you know who Edgar Ma is? 3 A. There is a flight attendant named Edgar 4 Maynard. 5 Q. Okay. Is that one of your supporters? 6 A. Yes. 7 Q. That's one of the usual suspects, isn't it? 8 A. I don't know if that is who Jeanna was talking 9 about. 10 Q. So this email to Julie O'Grady says, "Julie, as 11 a follow-up to our conversation yesterday, I am 12 including the following recent posts. 13 "A further example of the public encouragement 14 and endorsement of retaliatory practices of Jeanna 15 Jackson and company. Sincerely, Brian Talburt." 16 That's what he wrote to you and sent to you as 17 president of the Union, isn't it? 18 A. That is what he wrote and sent to Julie and 19 cc'd me on. 20 Q. And you've told us that Ms. Jackson in this 21 post was engaged in protected union activity, and 22 Mr. Talburt is telling Southwest Airlines that it is 23 an example of retaliatory practices of Jeanna 24 Jackson, true? 25 A. Yes.</p>	<p style="text-align: right;">Page 643</p> <p>1 Q. And you are on that email. And I'm sure there 2 is going to be an email from you saying, Wait a 3 minute, Julie. That is wrong. That is protected 4 activity. 5 Did you do that? 6 A. No. 7 Q. You are on this email, president of the Union. 8 Southwest Airlines receives it. The president of 9 the Union is on there and being told that this other 10 union member is doing something inappropriate, and 11 you are on the email and say nothing. True? 12 MR. GREENFIELD: Objection, your Honor. 13 MR. McKEEBY: Objection, asked and 14 answered. 15 THE COURT: Sustained. 16 BY MR. PRYOR: 17 Q. Did you take any action to disavow the effort 18 in this email to have charges brought against a 19 union member who was engaging in protected activity? 20 MR. McKEEBY: Objection, asked and 21 answered, and mischaracterizes the testimony -- or 22 the email. 23 MR. PRYOR: This is broader. I asked -- 24 MR. GREENFIELD: Your Honor, objection 25 that he's testifying as to a legal opinion -- a</p>

<p style="text-align: right;">Page 644</p> <p>1 legal fact. He's saying that it was in fact 2 protected activity. 3 MR. PRYOR: First of all -- 4 THE COURT: I'll overrule on the legal 5 fact. You did broaden it. 6 I'll let her answer the question. 7 BY MR. PRYOR: 8 Q. You can answer. 9 A. Can you repeat the question? 10 Q. Did you take any action to disavow this email 11 that you are on trying to charge a union member with 12 Southwest Airlines for engaging in protected union 13 activity? 14 A. No. 15 MR. PRYOR: Let's look at 21-Q. 16 I move for the admission of 21-Q. 17 THE COURT: Same objections on 21-Q? 18 Okay. So I will admit 21-Q. 19 The same limiting instruction. Everything 20 in 21 is for use in the claims against the Union and 21 not in the claims against Southwest. 22 You can publish. 23 (The referred-to document was admitted 24 into evidence as Plaintiff's Exhibit 21-Q.) 25 MR. PRYOR: I was hoping for the</p>	<p style="text-align: right;">Page 645</p> <p>1 unredacted version. It's easier to read. 2 We don't have that? If we don't, I will 3 just read this and we will see how we do on it. 4 Maybe we can work through it without the unredacted. 5 BY MR. PRYOR: 6 Q. This is in an email in response to the email we 7 just looked at from Deborah Edwards at Southwest 8 Airlines. And you are on it, Julie O'Grady is on 9 it, Mr. Talburt is on it. 10 Do you accept those representations? 11 A. Yes. 12 Q. And -- 13 MR. PRYOR: Oh, that's the same one I 14 have. 15 BY MR. PRYOR: 16 Q. Who is Deborah Edwards at Southwest Airlines? 17 A. At the time she was the Phoenix base manager, 18 which is where Mr. Talburt was based. 19 Q. Okay. Can you pull your mic closer to you and 20 tell me what you just said? 21 You are not willing to do that? 22 A. At the time she was the Phoenix base manager, 23 which is where Mr. Talburt was based. 24 Q. Okay. So this is a report to the base manager, 25 and she's -- she was on the email below.</p>
<p style="text-align: right;">Page 646</p> <p>1 I didn't mention her name. 2 And she says, in response to the email, "Thank 3 you for sending these to us, Brian. We will look 4 into this." 5 True? 6 A. Yes. 7 Q. And did you, in response to this email, tell 8 Southwest Airlines, You shouldn't be looking into 9 this against Ms. Jackson, the person trying to 10 recall me, because she's engaged in protected 11 activity? 12 A. No. 13 Q. Did you take any action to tell Southwest 14 Airlines that this was inappropriate? 15 A. No. 16 MR. PRYOR: Let's look at Exhibit 21-R. 17 BY MR. PRYOR: 18 Q. By the way, the date of that is February 23rd, 19 correct? 20 A. Yes. 21 Q. That's one day after you had reported Charlene 22 Carter for social media violation, true? 23 A. Yes. 24 Q. All right. 25 MR. PRYOR: Let's look at 21-R.</p>	<p style="text-align: right;">Page 647</p> <p>1 I move for the admission of 21-R. 2 THE COURT: Okay. Same objections? 3 Okay. Same ruling for me. I'm overruling 4 the objections other than giving the limiting 5 instruction on 21-R. 6 This is another 21 that's useful for the 7 claims against the Union but not for the claims 8 against Southwest. 9 You can publish. 10 (The referred-to document was admitted 11 into evidence as Plaintiff's Exhibit 21-R.) 12 BY MR. PRYOR: 13 Q. You were included on the email that is Exhibit 14 21-R, true? 15 A. Yes. 16 Q. And along with -- I think I have something that 17 tells me. 18 Who else is on 21-R? 19 So you are on it, Mr. Talburt is on it, and 20 Julie O'Grady at Southwest Airlines is on it. 21 Do you accept that? 22 A. My version is blacked out on who else was cc'd. 23 Q. No, I'm asking you to accept my representation. 24 Counsel have agreed. If I get it wrong, they 25 will tell me.</p>

<p style="text-align: right;">Page 648</p> <p>1 A. Okay. Yes.</p> <p>2 Q. Okay.</p> <p>3 So you know this is going to Southwest Airlines</p> <p>4 when you receive it.</p> <p>5 And it is yet again a complaint by Mr. Talburt</p> <p>6 to Southwest Airlines about Jeanna Jackson, true?</p> <p>7 A. I'm reading it. One moment.</p> <p>8 Q. Okay. Just let me know.</p> <p>9 A. Jeanna Jackson appears to be one of the flight</p> <p>10 attendants he is complaining about.</p> <p>11 THE COURT: Hold on. Is there an</p> <p>12 objection?</p> <p>13 MR. McKEEBY: It's not an objection. It</p> <p>14 is a request for a more specific limiting</p> <p>15 instruction, given some of the language in this</p> <p>16 document, particularly about other employee</p> <p>17 discipline.</p> <p>18 You've given that instruction in the past,</p> <p>19 but because this document is directly addressed to</p> <p>20 that issue, I would request a little bit more</p> <p>21 specificity in the instruction.</p> <p>22 THE COURT: Sure. I will give it and then</p> <p>23 I will ask Mr. Greenfield.</p> <p>24 Okay. So y'all know what I've talked</p> <p>25 about earlier how Southwest disciplined any employee</p>	<p style="text-align: right;">Page 649</p> <p>1 is not relevant to the claims in this lawsuit.</p> <p>2 There are some exhibits that have that in</p> <p>3 anyways, and we are not going to redact those out</p> <p>4 because it is next to information that is relevant.</p> <p>5 So I will just ask you to disregard</p> <p>6 information as to Southwest, I mean how Southwest</p> <p>7 treated any employee discipline-wise.</p> <p>8 Thank you.</p> <p>9 MR. GREENFIELD: Sorry, your Honor. I was</p> <p>10 just preparing for a sidebar.</p> <p>11 THE COURT: Okay. Do you need a sidebar?</p> <p>12 MR. GREENFIELD: No. I thought we were</p> <p>13 heading that way.</p> <p>14 THE COURT: Okay. Got it.</p> <p>15 MR. GREENFIELD: My apologies.</p> <p>16 THE COURT: I think we channeled in code.</p> <p>17 Did I satisfy your concerns?</p> <p>18 MR. McKEEBY: Yes, your Honor.</p> <p>19 THE COURT: Okay. We are good to go.</p> <p>20 Now you can proceed.</p> <p>21 MR. PRYOR: Thank you, your Honor.</p> <p>22 BY MR. PRYOR:</p> <p>23 Q. Let me make sure I understood your answer.</p> <p>24 This is yet again another email from</p> <p>25 Mr. Talburt.</p>
<p style="text-align: right;">Page 650</p> <p>1 At least in part, one of the people he's</p> <p>2 complaining about again is Jeanna Jackson, correct?</p> <p>3 A. Yes.</p> <p>4 Q. Does he complain about others, did you notice?</p> <p>5 A. Yes.</p> <p>6 Q. Did he complain about other flight attendants?</p> <p>7 A. Yes.</p> <p>8 Q. Did he complain about other flight attendants</p> <p>9 that are union members?</p> <p>10 A. I don't know because I don't know who else he's</p> <p>11 talking about.</p> <p>12 Q. And he's reporting this to Southwest Airlines</p> <p>13 for them to take action. He's requesting action,</p> <p>14 right?</p> <p>15 Did you read the last paragraph?</p> <p>16 A. I'm assuming he's requesting that they take</p> <p>17 action because he's complaining about various times</p> <p>18 he feels like he's been harassed and retaliated</p> <p>19 against.</p> <p>20 Q. I want to go back to Exhibit 21-P. That is</p> <p>21 where it had the post from Jeanna Jackson that was</p> <p>22 reported to Southwest Airlines.</p> <p>23 And in it she predicts that, you know what,</p> <p>24 this group of -- this group of usual suspects, they</p> <p>25 will be charging us for our efforts in this recall.</p>	<p style="text-align: right;">Page 651</p> <p>1 So be careful.</p> <p>2 And in fact, her post about be careful, be</p> <p>3 polite, don't say anything wrong, she gets reported</p> <p>4 for that, and you are on the email doing it.</p> <p>5 Is that right?</p> <p>6 A. I was cc'd on the email that was sent in.</p> <p>7 Q. Okay. My statement is correct, though, isn't</p> <p>8 it? I'm happy to say it again.</p> <p>9 A. Yes.</p> <p>10 Q. Yes, my statement is correct. Right?</p> <p>11 A. Yes.</p> <p>12 MR. PRYOR: Let's look at Exhibit 21-T.</p> <p>13 THE COURT: Same objections on 21-T?</p> <p>14 All right. Same ruling from me.</p> <p>15 I'm overruling Union objections on</p> <p>16 allowing it in under a limiting instruction.</p> <p>17 This is useful for the claims against the</p> <p>18 Union, not useful for the claims against Southwest.</p> <p>19 You can publish Exhibit 21-T.</p> <p>20 (The referred-to document was admitted</p> <p>21 into evidence as Plaintiff's Exhibit 21-T.)</p> <p>22 BY MR. PRYOR:</p> <p>23 Q. This is another email that you are on, dated</p> <p>24 March 1st, along with Deborah Edwards, the base</p> <p>25 manager, and management at Southwest Airlines,</p>

<p style="text-align: right;">Page 652</p> <p>1 yourself, and Mr. Talburt, correct?</p> <p>2 A. Yes.</p> <p>3 Q. And this is, once again, a complaint about</p> <p>4 Jeanna Jackson and others?</p> <p>5 A. I don't see Jeanna's name anywhere.</p> <p>6 Q. Let's look at the attachment.</p> <p>7 By the way, you really don't know who he's</p> <p>8 talking about here, right?</p> <p>9 Let's blow this up.</p> <p>10 A. I would be making assumptions without any other</p> <p>11 context of what I just read.</p> <p>12 Q. Okay. This is the attachment to the email.</p> <p>13 Do you see where it says "Jeanna Jackson"?</p> <p>14 A. Yes, I do.</p> <p>15 Q. And she's talking about the recall effort. And</p> <p>16 it's not so blurred that I can't read it, but I'm</p> <p>17 happy to read it for you.</p> <p>18 But I will let you read it and tell us, do you</p> <p>19 agree, again, that this is protected union activity?</p> <p>20 MR. GREENFIELD: Your Honor, I would like</p> <p>21 to object.</p> <p>22 I think a sidebar would be appropriate.</p> <p>23 THE COURT: Okay.</p> <p>24 (Thereupon, the following proceedings were</p> <p>25 had at sidebar:)</p>	<p style="text-align: right;">Page 653</p> <p>1 MR. GREENFIELD: There is a fine line that</p> <p>2 counsel is walking on in what he continues to call</p> <p>3 protected activity versus what she believes is</p> <p>4 protected activity.</p> <p>5 Defining something as protected activity</p> <p>6 or not is a legal conclusion.</p> <p>7 What she believes is protected union</p> <p>8 speech, I believe, is a improper way --</p> <p>9 THE COURT: I'm fine with that. It calls</p> <p>10 for a legal conclusion, what she's used, what she</p> <p>11 just talked about.</p> <p>12 MR. GREENFIELD: I don't believe there is</p> <p>13 in evidence that she used -- I don't know what that</p> <p>14 means.</p> <p>15 MR. PRYOR: She absolutely -- I will ask</p> <p>16 that question that way.</p> <p>17 THE COURT: I agree.</p> <p>18 MR. PRYOR: It is her job.</p> <p>19 THE COURT: I agree with yours.</p> <p>20 MR. PRYOR: Because she is Union</p> <p>21 president.</p> <p>22 (Thereupon, the sidebar was concluded and</p> <p>23 the following proceedings were held in open</p> <p>24 court:)</p> <p>25 THE COURT: All right. You can tweak that</p>
<p style="text-align: right;">Page 654</p> <p>1 like we talked about and ask it again.</p> <p>2 MR. PRYOR: I will.</p> <p>3 BY MR. PRYOR:</p> <p>4 Q. Let me read this. Read along with me. Let's</p> <p>5 make sure that we agree what this says, okay?</p> <p>6 Because it is a little blurred, but I think it</p> <p>7 is readable. If there is something I read that is</p> <p>8 wrong, just go ahead and stop me, okay?</p> <p>9 A. Okay.</p> <p>10 Q. This is from Jeanna Jackson, TWU 556.</p> <p>11 She's a union member, right?</p> <p>12 A. Yes.</p> <p>13 Q. "It appears our little recall that could is</p> <p>14 having a profound effect on this union and not in</p> <p>15 this president or someone's favor."</p> <p>16 Is that -- EB, is that the executive board?</p> <p>17 A. Yes.</p> <p>18 Q. "Panic has set in at the amount of power. In</p> <p>19 all of the" --</p> <p>20 MR. PRYOR: Make it a little smaller.</p> <p>21 Maybe I can read that. Yes. So it won't be quite</p> <p>22 as blurred. Smaller, not bigger. Not quite as big.</p> <p>23 That actually may have helped.</p> <p>24 BY MR. PRYOR:</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">Page 655</p> <p>1 "Panic has set in at the amount of power. Our</p> <p>2 voices have discussed outrage and shock, actually</p> <p>3 have.</p> <p>4 "With that being said, that panic is creating a</p> <p>5 fight or fight affect that is affecting us. This</p> <p>6 leadership is doing everything they can to stay in</p> <p>7 power, even stooping so low as to turning</p> <p>8 dues-paying members in for perceived SMVs."</p> <p>9 Do you think that is social media violations?</p> <p>10 A. Yes.</p> <p>11 Q. In fact, that's what was going on, wasn't it?</p> <p>12 You had done it, Brian Talburt had done it,</p> <p>13 Mr. Nevarez was involved in it, true?</p> <p>14 MR. GREENFIELD: Objection, your Honor.</p> <p>15 THE COURT: I will allow it.</p> <p>16 THE WITNESS: Mr. Talburt was not in</p> <p>17 leadership, and to my knowledge, Mr. Nevarez had not</p> <p>18 turned anything in.</p> <p>19 BY MR. PRYOR:</p> <p>20 Q. Well, you had turned in Ms. Carter and you were</p> <p>21 involved in the emails turning in Ms. Jackson.</p> <p>22 That much is true, right?</p> <p>23 A. I was cc'd on them, yes.</p> <p>24 Q. I'm sorry?</p> <p>25 A. I was cc'd on them.</p>

<p style="text-align: right;">Page 656</p> <p>1 Q. I understand. That is involved. You received 2 it. You are the Union president. You were involved 3 to the extent that you were informed of it and the 4 Union president took no action to disavow it. 5 MR. GREENFIELD: Objection, your Honor. 6 Counsel is testifying. 7 THE COURT: I will allow it. 8 THE WITNESS: Yes. 9 BY MR. PRYOR: 10 Q. And you say, "They are having their minions 11 turn in members to management for any type of 12 discussion that they do not agree with and claiming 13 they are offended, which in turn creates an FF 14 meeting." 15 Fact-finding meeting. 16 That means Southwest is going to investigate 17 them, true? 18 A. Yes. 19 Q. In fact, you are even on the email where they 20 take this communication, complaining about that 21 activity, and turning her in for that. True? 22 A. Yes. 23 Q. "The president and executive board are 24 violating yet another bylaw, the one that says 25 members are allowed to have a dissenting opinion</p>	<p style="text-align: right;">Page 657</p> <p>1 from that of the Union without fear of reprisal or 2 lack of representation. 3 "I attach a screenshot of the actual bylaw. 4 Please read the whole paragraph." 5 I can read on. I think we can see it. 6 But it is clear that in your belief and 7 understanding as president of Local 556, this is 8 protected union activity. True? 9 A. Yes. 10 Q. And so when we go to the email where she's 11 being reported for engaging in this protected 12 activity, you once again are included as president 13 of the Union and take no action to disavow or inform 14 Southwest Airlines you disagree with the information 15 on which you are carbon-copied, true? 16 A. Yes. 17 MR. PRYOR: Let's look at Exhibit 21-U. 18 I move for the admission of 21-U. 19 THE COURT: Okay. Same objections, same 20 ruling. 21-U is in, but limited to the claims 21 against the Union, not the claims against Southwest. 22 You can publish. 23 (The referred-to document was admitted 24 into evidence as Plaintiff's Exhibit 21-U.) 25</p>
<p style="text-align: right;">Page 658</p> <p>1 BY MR. PRYOR: 2 Q. 21-U is an email from Brian Talburt on 3 May 15th. He includes Mike Sims and Sonya Lacore. 4 And Sonya Lacore is the one he was having the 5 discussions with about using social media policy to 6 target union members that he didn't like. 7 Do you recall that? 8 A. I recall that there was an email that he had 9 had with Sonya complaining. 10 Q. And you know, when we say it was his email, you 11 were forwarded that email and took no action, as I 12 remember, correct? 13 A. Yes. 14 Q. And you were also on this email where it says 15 "President at TWU 556." 16 That is you? 17 A. Yes. 18 Q. And once again, he's trying to get the company 19 to take action against Jeanna Jackson, the head of 20 the recall petition, true? 21 A. Yes. 22 Q. And he's specifically talking about using the 23 social media policy and even puts in a portion of 24 the policy itself, right? 25 A. I'm still reading. I haven't gotten to that</p>	<p style="text-align: right;">Page 659</p> <p>1 part. 2 Q. I'm sorry? 3 A. I'm still reading. 4 Q. Oh, okay. 5 A. Can you ask your question again, please? 6 Q. Yes. 7 Once again, this is, it looks like, maybe a 8 month and a half later, you are included on 9 communications where there are efforts by Brian 10 Talburt with the president of the Union on the email 11 where he's once again trying to get the company to 12 take action against Jeanna Jackson. 13 A. Yes. 14 Q. And at the top, I will tell you that 15 carbon-copy is not just you, Audrey Stone, but it is 16 also Brett Nevarez, who was also an officer of the 17 Union, true? 18 A. Yes. 19 Q. And who is Mr. Sims at Southwest Airlines? 20 A. He, at the time, and still now, is the director 21 of -- was in inflight for base operations, I 22 believe. 23 Q. And so he responds, "Thank you, Brian. We will 24 review your concerns." 25 And you had no response to that, true?</p>

<p style="text-align: right;">Page 660</p> <p>1 A. Yes.</p> <p>2 MR. PRYOR: Let's look at 2-V.</p> <p>3 MR. GREENFIELD: 21-V?</p> <p>4 MR. PRYOR: I'm sorry.</p> <p>5 I move for the admission of 21-V.</p> <p>6 THE COURT: 21-V.</p> <p>7 Same objections, same ruling. So I'm</p> <p>8 overruling the objections, admitting it in for the</p> <p>9 lited purpose of the claims against the Union, not</p> <p>10 against Southwest.</p> <p>11 You can publish.</p> <p>12 (The referred-to document was admitted</p> <p>13 into evidence as Plaintiff's Exhibit 21-V.)</p> <p>14 BY MR. PRYOR:</p> <p>15 Q. And so this is an email, and I think we will be</p> <p>16 able to, before it goes to the jury room at the</p> <p>17 conclusion of the trial, be able to take out enough</p> <p>18 of the black marks that they will know who these</p> <p>19 people are so I don't have to remember it right now.</p> <p>20 But I will represent to you, this is an email</p> <p>21 from Brian Talburt to Mike Sims, carbon-copied Juan</p> <p>22 Suarez and Deborah Edwards and Sonya Lacore, a name</p> <p>23 we have heard before.</p> <p>24 Those are all Southwest people?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 661</p> <p>1 Q. And it also includes Brett Nevarez and</p> <p>2 yourself, the officers of Local 556, true?</p> <p>3 A. Yes.</p> <p>4 Q. And now it is July, and more complaints about</p> <p>5 Ms. Jackson, true?</p> <p>6 A. I'm still reading.</p> <p>7 Q. Okay. Do you see it is about Ms. Jackson now?</p> <p>8 A. Yes.</p> <p>9 Q. Once again, this is an email that senior</p> <p>10 officers of Local 556 are on where you have another</p> <p>11 complaint about Ms. Jackson to Southwest Airlines,</p> <p>12 true?</p> <p>13 A. Yes.</p> <p>14 Q. You took no action to disavow that either, did</p> <p>15 you?</p> <p>16 A. No.</p> <p>17 Q. And to your knowledge, at any time did any</p> <p>18 member of the officer team at Local 556 take any</p> <p>19 action to correct this -- these reports to Southwest</p> <p>20 Airlines against Ms. Jackson for engaging in</p> <p>21 protected union activity, as you understand it?</p> <p>22 A. No.</p> <p>23 But I will also add, he references again in</p> <p>24 this feeling harassed and being retaliated against,</p> <p>25 and you can't do that even under the guise of</p>
<p style="text-align: right;">Page 662</p> <p>1 protected union activity.</p> <p>2 Q. The harassment was that she was engaging in a</p> <p>3 recall petition.</p> <p>4 What harassment?</p> <p>5 Have you seen any evidence of harassment in any</p> <p>6 of the attachments?</p> <p>7 A. In this particular exhibit, he's specifically</p> <p>8 speaking about a physical address of another flight</p> <p>9 attendant being published to 1,000 people.</p> <p>10 Q. Okay.</p> <p>11 A. I don't see the post. I don't know what he's</p> <p>12 referencing.</p> <p>13 All I have is what is in front of me.</p> <p>14 Q. He makes some allegations, I see that.</p> <p>15 But in terms of evidence that you are aware of</p> <p>16 to support any of this, did you ask to see any</p> <p>17 evidence or documentation to support anything that</p> <p>18 would justify you, as Union president, not</p> <p>19 responding to these emails and saying, quit picking</p> <p>20 on a union member for engaging in union activity?</p> <p>21 A. I saw a number of social media posts during</p> <p>22 this time that were harassing and retaliatory in</p> <p>23 nature towards various members.</p> <p>24 Q. So where are they?</p> <p>25 We would be happy to talk to you about them,</p>	<p style="text-align: right;">Page 663</p> <p>1 ma'am, or is this some more evidence that you don't</p> <p>2 have?</p> <p>3 MR. GREENFIELD: Objection, your Honor.</p> <p>4 The witness is here to answer questions,</p> <p>5 not produce evidence.</p> <p>6 THE COURT: Sustained.</p> <p>7 I sustained it. You need to ask a new</p> <p>8 question.</p> <p>9 BY MR. PRYOR:</p> <p>10 Q. Where are these posts?</p> <p>11 We have got lots of posts here. We've got lots</p> <p>12 of evidence here.</p> <p>13 MR. GREENFIELD: Objection.</p> <p>14 BY MR. PRYOR:</p> <p>15 Q. Please point to a post. We will be happy to</p> <p>16 discuss it.</p> <p>17 THE COURT: I will allow that.</p> <p>18 THE WITNESS: I didn't put together the</p> <p>19 exhibits. I don't know what exhibits Southwest or</p> <p>20 the Union are preparing to bring in.</p> <p>21 I know for a fact that there were numerous</p> <p>22 posts on social media that were investigated</p> <p>23 regarding harassment and retaliatory behavior and</p> <p>24 that there were flight attendants disciplined for</p> <p>25 those posts.</p>

<p style="text-align: right;">Page 664</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. Let's talk about that.</p> <p>3 In fact, isn't what happened is, your union</p> <p>4 leadership gathered as much social media information</p> <p>5 as you could about your opponents, and you sent it</p> <p>6 to Southwest Airlines and reported it, some of it</p> <p>7 going back five years?</p> <p>8 Isn't that what you did?</p> <p>9 Is that what you are talking about?</p> <p>10 A. No.</p> <p>11 Q. You didn't do that? You had nothing to do with</p> <p>12 that, that is your sworn testimony?</p> <p>13 MR. GREENFIELD: Objection, your Honor,</p> <p>14 asked and answered.</p> <p>15 THE COURT: Sustained.</p> <p>16 BY MR. PRYOR:</p> <p>17 Q. Did you have anything to do with that?</p> <p>18 MR. GREENFIELD: Objection, your Honor,</p> <p>19 asked and answered.</p> <p>20 THE COURT: Sustained.</p> <p>21 BY MR. PRYOR:</p> <p>22 Q. Let me try another. I didn't hear an answer to</p> <p>23 my question, so I will broaden it.</p> <p>24 Is it fair to say that you were aware of</p> <p>25 complaints being made to Southwest Airlines about</p>	<p style="text-align: right;">Page 665</p> <p>1 recall petition supporters?</p> <p>2 A. Yes.</p> <p>3 Q. And in fact, did you and Rickie Spand bring</p> <p>4 allegations against several union member flight</p> <p>5 attendants to Southwest Airlines in that regard?</p> <p>6 A. I can't speak to what Rickie Spand brought</p> <p>7 forward. He and I didn't have conversations about</p> <p>8 it.</p> <p>9 I brought forward concerns of retaliation to</p> <p>10 Southwest after I had reported Ms. Carter.</p> <p>11 Q. And in fact, you brought, in addition to</p> <p>12 everything -- the emails you were on, you also</p> <p>13 brought a complaint against Jeanna Jackson, true?</p> <p>14 A. Yes.</p> <p>15 Q. Let me approach and show you Exhibit 132 to see</p> <p>16 if this refreshes your recollection.</p> <p>17 The underlined that I'm referring to --</p> <p>18 THE COURT: We can't hear you if you are</p> <p>19 not talking into a mic, Mr. Pryor.</p> <p>20 MR. PRYOR: I'm directing her attention to</p> <p>21 that. Directing her attention to that.</p> <p>22 BY MR. PRYOR:</p> <p>23 Q. Ma'am, I'm going to have you review</p> <p>24 Exhibit 132, and specifically the information I</p> <p>25 underlined for you.</p>
<p style="text-align: right;">Page 666</p> <p>1 I will ask you, do you recall that, in fact,</p> <p>2 that you and Rickie Spand brought several complaints</p> <p>3 against flight attendants?</p> <p>4 A. As I already stated, I don't know what Rickie</p> <p>5 Spand brought forward. I don't know what his</p> <p>6 complaints were.</p> <p>7 I know what mine was.</p> <p>8 Q. And you are telling us it was only against</p> <p>9 Jeanna Jackson that you brought a complaint?</p> <p>10 A. No, that's not what I stated.</p> <p>11 Q. Okay. So who in addition to Ms. Carter and</p> <p>12 Ms. Jackson did you bring complaints against?</p> <p>13 A. I believe the other one was Chris Click.</p> <p>14 Q. I'm sorry, who?</p> <p>15 A. Chris Click.</p> <p>16 Q. That is right, Chris Click. That's the guy</p> <p>17 that was elected president that got kicked out and</p> <p>18 you ended up being president, right?</p> <p>19 A. He wasn't elected president.</p> <p>20 Q. I'm sorry?</p> <p>21 A. He was not elected president.</p> <p>22 Q. What was he elected?</p> <p>23 A. First vice president.</p> <p>24 Q. Okay. So that was the first vice president</p> <p>25 that got kicked out.</p>	<p style="text-align: right;">Page 667</p> <p>1 Were you then put in as first vice president</p> <p>2 and then promoted to president?</p> <p>3 A. I was put in first vice president per our</p> <p>4 bylaws, and due to succession in our bylaws, I</p> <p>5 eventually moved up to the presidency once the</p> <p>6 president was removed from office.</p> <p>7 Q. So you are reporting a recall petition</p> <p>8 supporter, a previous political opponent to the</p> <p>9 company, and they are both union members, right?</p> <p>10 A. Yes.</p> <p>11 Q. Is it fair to say that you never reported a</p> <p>12 union member that was a supporter of yours at any</p> <p>13 time for anything they did? True?</p> <p>14 A. Yes, because I never felt harassed or</p> <p>15 retaliated against by a union supporter.</p> <p>16 Q. You don't have to turn in violations of company</p> <p>17 policy that you see, just only when you are</p> <p>18 harassed?</p> <p>19 A. I have the right, if I feel like I'm being</p> <p>20 harassed or retaliated against, to report that per</p> <p>21 Southwest Airlines policy.</p> <p>22 MR. PRYOR: May I approach, your Honor?</p> <p>23 THE COURT: You may.</p> <p>24 (Thereupon, the following proceedings were</p> <p>25 had at sidebar:)</p>

<p style="text-align: right;">Page 668</p> <p>1 MR. PRYOR: Would it violate the limine 2 instruction to ask her what happened to Ms. Jackson? 3 I would like to make an offer of proof on 4 it outside the presence of the jury, if I'm not 5 allowed to ask. I don't know what her answer would 6 be. 7 THE COURT: At the next break. 8 MR. PRYOR: Thank you. 9 (Thereupon, the sidebar was concluded and 10 the following proceedings were held in open 11 court.) 12 BY MR. PRYOR: 13 Q. Is it your understanding that Local 556 has an 14 affirmative duty to accommodate employees' religious 15 beliefs? 16 MR. GREENFIELD: Objection, your Honor. 17 Asking for a legal opinion as to -- 18 MR. PRYOR: She's president of the Union 19 and has obligations -- 20 MR. GREENFIELD: -- accommodating a 21 religious -- 22 THE COURT: Hold on. No speaking 23 objections and no speaking responses. 24 I will allow her to answer the question if 25 she has personal knowledge.</p>	<p style="text-align: right;">Page 669</p> <p>1 THE WITNESS: The only discussion or 2 knowledge I ever had while president about religious 3 accommodations was with an attorney and protected 4 under attorney-client privilege. 5 BY MR. PRYOR: 6 Q. As president of the Union, you had no 7 understanding, apart from a privilege conversation 8 with your attorney, regarding the Union's 9 obligations to accommodate religious beliefs of its 10 members or objectors? 11 A. It came up once during my entire 12 administration. 13 Q. When did you have this conversation with an 14 attorney? 15 A. I don't recall at what point it was during the 16 presidency -- during my presidency. I just remember 17 what prompted the conversation. 18 Q. What prompted it? 19 A. For the inflight training flight attendant 20 candidates, the Union both spoke at training and 21 then hosted a union-sponsored dinner for the flight 22 attendant candidates. 23 And there was a flight attendant candidate who 24 had approached our treasurer at the time to ask 25 about not joining the union due to his religious</p>
<p style="text-align: right;">Page 670</p> <p>1 beliefs. 2 I wasn't a part of that conversation. The 3 treasurer came to me, and it was not something that 4 we had ever dealt -- I had never dealt with before, 5 he had never dealt with before, so we immediately 6 sought legal counsel. 7 Q. What was the religious belief involved? 8 A. That he was a Christian and -- again, to my 9 knowledge, I didn't personally speak to the flight 10 attendant -- and that his belief in the Bible, he 11 was not allowed to join a union. 12 Q. So he said he couldn't join? 13 A. That was his request. That based off of his 14 religious Christian beliefs, he did not want to join 15 the union, which would not take place until after 16 you actually successfully complete probation. 17 Q. All he has to do is opt out. Was he wanting to 18 not pay dues as well? 19 A. Correct. He was not requesting to opt out or 20 be an agency fee. He was requesting to pay zero 21 dues upon completion of probation. 22 Q. Okay. And did the union accept or reject that 23 accommodation request? 24 A. The accommodation request was never formally 25 made. He did not complete probation with Southwest</p>	<p style="text-align: right;">Page 671</p> <p>1 Airlines. 2 Q. So he never qualified even to be a union member 3 then? 4 A. Correct. 5 Q. Okay. 6 So since that time, having talked to your 7 attorney and understanding your duties in regard to 8 protecting religious views and accommodations for 9 them, have you provided any religious 10 accommodations? 11 A. No. There was nothing that came up outside of 12 that. 13 MR. PRYOR: Let me look at my notes. 14 We move for the admission of 21-X. 15 THE COURT: 21-X. 16 MR. McKEEBY: So I'm not sure I really 17 understand the exhibit. 18 Let's just go with it. 19 MR. GREENFIELD: Are we talking about 20 21-X? 21 THE COURT: 21-X. 22 MR. GREENFIELD: Can we have it pulled up 23 on the screens outside the jury? 24 THE COURT: We have got the jury screens 25 muted.</p>

<p style="text-align: right;">Page 672</p> <p>1 Can you pull up 21-X on the screen. 2 Now that you can see it, any other 3 objections to raise on 21-X? 4 MR. McKEEBY: Southwest has the same 5 limiting instruction request. 6 MR. GREENFIELD: No objection, your Honor. 7 THE COURT: Okay. I will overrule those 8 prior objections we discussed, and I will include 9 this with the same limiting instruction. 10 These are for the claims against the Union 11 and not for the claims against Southwest. 12 21-X is in. 13 You can publish. 14 (The referred-to document was admitted 15 into evidence as Plaintiff's Exhibit 21-X.) 16 BY MR. PRYOR: 17 Q. Can you identify 21-X as an email that you are 18 on, carbon-copied on, Brett Nevarez is carbon-copied 19 on, it is sent from Rickie Spand? 20 And that is one of your inner-circle people? 21 A. No. 22 It was sent from Rickie Spand and the entire 23 executive board was copied on it. He was not anyone 24 I would consider in my inner circle. 25 Q. He was what?</p>	<p style="text-align: right;">Page 673</p> <p>1 A. He was not someone I would consider in my inner 2 circle. 3 There was points he was very outspoken against 4 me and my administration. 5 Q. So Rickie Spand would not be someone in support 6 of your leadership, true? 7 A. Many times over the course of my administration 8 he was not in support of my leadership. 9 Q. How about in March of '27 [sic], was he on your 10 side then? 11 A. It appears so, yes. 12 Q. And he's sending to Suzanne Stephenson another 13 complaint about Jeanna Jackson and her recall 14 propaganda, true? 15 A. Yes. 16 Q. And you are on this, right? 17 A. Yes. 18 Q. Did you review it to see if it involved 19 protected union activity to see whether or not maybe 20 you should tell Suzanne Stephenson, Hey, there is 21 nothing wrong with that? 22 A. No. 23 Q. Is that a good example of how you performed 24 your duties as president of Local 556 in 2017? 25 A. Can you repeat the question?</p>
<p style="text-align: right;">Page 674</p> <p>1 Q. Yes. 2 Is that a good example of how you performed 3 your duties as president of the union in 2017? 4 A. No, that is not -- that is -- I don't believe 5 that not responding to this is representative of how 6 I did my job as president. 7 Q. So do you think now, you know what, I should 8 have, as Union president, exercised that fiduciary 9 duty to my member and make sure that Southwest 10 Airlines is not confused that this is union 11 activity? 12 Did you think to do that? 13 A. No. I did not get involved when a flight 14 attendant brought something forward to Southwest 15 management as a concern, or any part of those 16 conversations that they chose to have with 17 leadership. 18 Q. Well, ma'am, you are involved because you are 19 on the email. 20 If you are going to say, Hey, the fact that I'm 21 on there means nothing, why wouldn't you then 22 respond to Southwest Airlines -- yes, to Southwest 23 Airlines, and say, Hey, I'm not involved in this. 24 I'm not, as Union president, even going to comment, 25 as opposed to, it looks like the leadership of the</p>	<p style="text-align: right;">Page 675</p> <p>1 Union is on here and is either in support or 2 remaining silent. 3 MR. McKEEBY: Objection, asked and 4 answered, compound. 5 THE COURT: Sustained. 6 BY MR. PRYOR: 7 Q. You don't think you, as a good Union president, 8 should have taken action in regard to any of these 9 emails where reports are being made against your 10 political opponents? 11 A. No. 12 MR. PRYOR: Thank you. 13 THE COURT: Any further questions? 14 Any further questions? 15 MR. PRYOR: I'm sorry, your Honor. 16 Other than what we just sidebarred about, 17 I have no further questions at this time. 18 THE COURT: Sure. 19 I take that subject to, we can go ahead 20 and start cross-examination of the witness. 21 Do we know who wants to go first? 22 MR. GREENFIELD: I will, your Honor. 23 THE COURT: Okay. Go for it. 24 Go ahead, Mr. Greenfield. 25</p>

<p style="text-align: right;">Page 676</p> <p>1 CROSS-EXAMINATION</p> <p>2 BY MR. GREENFIELD:</p> <p>3 Q. Good morning, Ms. Stone.</p> <p>4 A. Good morning.</p> <p>5 Q. Counsel for the Plaintiff talked a lot about</p> <p>6 the words that were sent and whether those were</p> <p>7 protected activity; is that correct?</p> <p>8 A. Yes.</p> <p>9 Q. And did you testify that the words you saw</p> <p>10 were, in your opinion, protected activity? Is that</p> <p>11 correct?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. I would like to talk a little bit about</p> <p>14 the actions and the manner that went along with</p> <p>15 those words.</p> <p>16 In your opinion, if someone would have sent you</p> <p>17 a horse head that was chopped off a horse with the</p> <p>18 words on it, "We are going to recall you from</p> <p>19 president, Audrey Stone," would the words themselves</p> <p>20 be protected activity, in your opinion?</p> <p>21 A. The words, yes.</p> <p>22 Q. What about the manner in which it was sent?</p> <p>23 A. No.</p> <p>24 Q. Okay. What if the words that were protected</p> <p>25 activity about recalling you included liable or</p>	<p style="text-align: right;">Page 677</p> <p>1 slander? Do you think, along with when those are</p> <p>2 coupled together, that is still, in your view, was</p> <p>3 protected activity?</p> <p>4 A. Is there an example, just so I understand what</p> <p>5 your idea of slander is?</p> <p>6 Q. Yes.</p> <p>7 And let's just move on to fraud for</p> <p>8 specificity's sake.</p> <p>9 Do you remember the recall petition that has</p> <p>10 been discussed at length by counsel?</p> <p>11 A. Yes.</p> <p>12 MR. GREENFIELD: Can you pull up Exhibit</p> <p>13 No. 134.</p> <p>14 BY MR. GREENFIELD:</p> <p>15 Q. Before we get into the specifics of the</p> <p>16 document -- before we get into the specifics of the</p> <p>17 document, what is your memory of the outcome of a</p> <p>18 review of the recall petition?</p> <p>19 A. That the recall petition was essentially deemed</p> <p>20 unsuccessful and invalid because it contained a</p> <p>21 number of fraudulent entries, forged signatures,</p> <p>22 signatures of flight attendants who had -- who were</p> <p>23 no longer with us, or there were white out, there</p> <p>24 were expired signatures, white out on documents</p> <p>25 where they just changed the date by a year.</p>
<p style="text-align: right;">Page 678</p> <p>1 Duplicate signatures.</p> <p>2 A list of reasons where the recall fell very</p> <p>3 short of reaching the number needed, um, for it to</p> <p>4 even to be considered, um, valid.</p> <p>5 Q. Did you consider the recall petition to be a</p> <p>6 fraudulent document?</p> <p>7 MR. PRYOR: Objection, leading.</p> <p>8 THE COURT: Sustained.</p> <p>9 BY MR. GREENFIELD:</p> <p>10 Q. What were your opinions of the recall petition?</p> <p>11 A. My opinion of the recall petition, um, was that</p> <p>12 even the basis that it was started under, which was</p> <p>13 a change in the duty day, contractual duty day, the</p> <p>14 proposed change in the tentative agreement that was</p> <p>15 rejected, I didn't believe that was even a basis for</p> <p>16 a recall petition that a negotiated, agreed-upon</p> <p>17 change in the contract wasn't a valid basis.</p> <p>18 But the Union ultimately decided the Union</p> <p>19 would do their due diligence and look into it, and</p> <p>20 conducted a very lengthy, thorough examination of</p> <p>21 the findings to determine whether or not what was</p> <p>22 presented even met the criteria needed under our</p> <p>23 bylaws, separate from whether or not the reason for</p> <p>24 the recall was a valid reason.</p> <p>25 Q. And who made that decision to review the recall</p>	<p style="text-align: right;">Page 679</p> <p>1 petition?</p> <p>2 A. The executive board.</p> <p>3 Q. Now, my understanding is that your testimony</p> <p>4 yesterday, and/or earlier today, was that the recall</p> <p>5 petition came about because of the failed tentative</p> <p>6 agreement on the first CBA; is that correct?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Do you remember any of the board members</p> <p>9 who voted against that tentative agreement No. 1?</p> <p>10 A. Yes.</p> <p>11 Q. Who are those board members, if you can recall?</p> <p>12 A. They were Jessica Parker --</p> <p>13 MR. PRYOR: Object on lack of foundation.</p> <p>14 THE COURT: I'll allow it.</p> <p>15 Ask the question. She can answer.</p> <p>16 THE WITNESS: Jessica Parker, David</p> <p>17 Jackson, Donna Keith, and BR Ricks. Those were the</p> <p>18 four board members not named on the recall petition.</p> <p>19 BY MR. GREENFIELD:</p> <p>20 Q. Okay. Now, what steps, in your recollection,</p> <p>21 did the executive board set up to review this recall</p> <p>22 petition?</p> <p>23 A. The steps set up were that there was going to</p> <p>24 be a committee formed, and that for obvious reasons,</p> <p>25 no one that was named on the recall would serve on</p>

<p style="text-align: right;">Page 680</p> <p>1 that committee or have any conversations.</p> <p>2 Our typical Union process, and I think I even</p> <p>3 spoke a little bit yesterday, is that our committees</p> <p>4 have a liaison that serves as the go-between between</p> <p>5 a committee and the executive board, who is the</p> <p>6 governing body of the union.</p> <p>7 So it was also agreed upon that the liaison to</p> <p>8 the committee that was going to be reviewing it</p> <p>9 could also not be a board member that was named on</p> <p>10 the recall.</p> <p>11 So the committee was set up with three of the</p> <p>12 four board members who were not named and who do not</p> <p>13 vote to send a tentative agreement out, and the</p> <p>14 liaison was a board member who had come onto the</p> <p>15 board since then and had not had any part of the</p> <p>16 vote of the TA, and he was made the liaison for the</p> <p>17 committee.</p> <p>18 And they worked with legal counsel throughout</p> <p>19 the process to ensure proper verification.</p> <p>20 BY MR. GREENFIELD:</p> <p>21 Q. Okay. So my understanding is the executive</p> <p>22 board decided that a committee should be named to</p> <p>23 review the petition; is that correct?</p> <p>24 MR. PRYOR: Object, leading.</p> <p>25 THE COURT: Sustained.</p>	<p style="text-align: right;">Page 681</p> <p>1 BY MR. GREENFIELD:</p> <p>2 Q. Was a committee formed?</p> <p>3 A. Yes.</p> <p>4 Q. And who were the committee members who reviewed</p> <p>5 the recall petition?</p> <p>6 A. Jessica Parker, Donna Keith and John DiPippa.</p> <p>7 Q. Ms. Parker opposed the first Collective</p> <p>8 Bargaining Agreement?</p> <p>9 A. Yes.</p> <p>10 Q. And Ms. Keith opposed the first Collective</p> <p>11 Bargaining Agreement?</p> <p>12 A. Yes.</p> <p>13 Q. And what about Mr. DiPippa?</p> <p>14 A. Yes. And I'm sorry, I may not have listed him</p> <p>15 earlier.</p> <p>16 Q. And were those individuals named in the recall</p> <p>17 petition themselves?</p> <p>18 A. No, they were not.</p> <p>19 Q. Can you identify this document?</p> <p>20 A. Yes.</p> <p>21 Q. And about a quarter way down the page, it has,</p> <p>22 bolded, "Findings."</p> <p>23 Do you see where I'm at?</p> <p>24 A. Yes.</p> <p>25 Q. "Entries found not valid fell into the</p>
<p style="text-align: right;">Page 682</p> <p>1 following categories."</p> <p>2 Did I read that correctly?</p> <p>3 A. Yes.</p> <p>4 Q. "130 no employee numbers. 442 with no dates</p> <p>5 associated to the entry. 19 with no dates, no</p> <p>6 employee numbers."</p> <p>7 And let's just go down a little bit more.</p> <p>8 36 were filed by -- were signed by members in</p> <p>9 bad standing; is that correct?</p> <p>10 A. Yes.</p> <p>11 Q. 49 were either signed by individuals who were</p> <p>12 no longer with the company, who had quit and/or were</p> <p>13 deceased; is that correct?</p> <p>14 MR. PRYOR: Object, leading.</p> <p>15 THE COURT: Sustained.</p> <p>16 MR. GREENFIELD: Did I read that</p> <p>17 correctly?</p> <p>18 MR. PRYOR: Object, leading, based on the</p> <p>19 previous question.</p> <p>20 THE COURT: I will allow it.</p> <p>21 BY MR. GREENFIELD:</p> <p>22 Q. Did I read that correctly?</p> <p>23 A. Yes.</p> <p>24 Q. There were 504 duplicate signatures.</p> <p>25 Did I read that correctly?</p>	<p style="text-align: right;">Page 683</p> <p>1 MR. PRYOR: Object, leading.</p> <p>2 THE WITNESS: Yes.</p> <p>3 BY MR. GREENFIELD:</p> <p>4 Q. Only 15 agency fee objectors signed it,</p> <p>5 correct?</p> <p>6 MR. PRYOR: Object, leading.</p> <p>7 THE COURT: It's fine.</p> <p>8 THE WITNESS: Yes.</p> <p>9 BY MR. GREENFIELD:</p> <p>10 Q. "88 signatures did not match the employee</p> <p>11 numbers."</p> <p>12 Did I read that correct?</p> <p>13 A. Yes.</p> <p>14 Q. "115 signatures were either altered or the date</p> <p>15 expired and year changed from year 2015 to 2016."</p> <p>16 Did I read that correctly?</p> <p>17 A. Yes.</p> <p>18 Q. "1,612 issues of there being a white-out or the</p> <p>19 date expired and year change from 2015 to 2016."</p> <p>20 Did I read that correctly?</p> <p>21 A. Yes.</p> <p>22 Q. And why was -- why would that matter that the</p> <p>23 date was changed from 2015 to 2016, if it mattered</p> <p>24 at all?</p> <p>25 A. The language in our bylaws is specific to a</p>

<p style="text-align: right;">Page 684</p> <p>1 time frame, and I believe it's recall -- the first 2 signature to when it's turned in, it has to be 3 within, I believe, a 12-month time period. 4 Otherwise, the signatures expire and can't -- cannot 5 be counted as a valid signature on the recall 6 petition. 7 Q. Okay. In total, how many invalid entries do 8 you see? 9 A. 3,503. 10 Q. And how many were required for a valid recall 11 petition of the board? 12 Let me ask it a different way. 13 A. 50 percent plus one of the membership, I 14 believe, is the -- I don't know the number, but I 15 believe that's the statistic needed. 16 Q. Okay. 17 A. The percentage. 18 Q. Do you have a recollection about how many 19 members of the union there were? 20 A. At this point, there were I think over 15,000. 21 Q. So if my math is correct, that would require 22 7,001 signatures for a valid recall petition? 23 A. Correct. 24 Q. At the end of examination, the name Chris Click 25 was brought up.</p>	<p style="text-align: right;">Page 685</p> <p>1 Do you remember -- did you testify that you 2 filed a complaint with Southwest Airlines against 3 Chris Click? 4 A. Yes. 5 Q. And what was the nature of that? 6 A. He had -- he was posting on social media and I 7 believe using my specific name and talking about me 8 in relation to turning in Ms. Carter. 9 Q. And why did you turn him in for that? 10 A. Because employees are supposed to be protected 11 under the Southwest Airlines policy to be able to 12 bring a complaint forward and not be subjected to 13 retaliation. 14 And it was one of my concerns and why it took 15 me many days between receiving the videos and 16 sending the complaint to Southwest, because I was 17 scared of being retaliated against. 18 Q. Now, it was discussed that Mr. Click was -- was 19 Mr. Click removed from office at any point? 20 A. Yes. 21 Q. Okay. And who are the other individuals who 22 were removed from office? 23 Do you remember their names? 24 A. Jerry Lindemann, who was treasurer, and Stacy 25 Martin, who was president.</p>
<p style="text-align: right;">Page 686</p> <p>1 Q. And in what year did that occur? 2 A. 2013. 3 Q. Okay. Can you explain to the jury the 4 circumstances as to how and why those individuals 5 were removed from office, if you know? 6 MR. PRYOR: Object, lack of foundation. 7 Request to voir dire the witness. 8 MR. GREENFIELD: I asked -- 9 (Thereupon, the following proceedings were 10 had at sidebar:) 11 THE COURT: Why would you need to voir 12 dire the witness? 13 MR. PRYOR: He can't do it, if he's not 14 going to establish a foundation. 15 MR. GREENFIELD: I asked if she knew. 16 MR. PRYOR: You asked what were the 17 circumstances. 18 MR. GREENFIELD: If she knew. 19 THE COURT: You need a foundation for 20 answering the question. 21 MR. PRYOR: I didn't hear -- I guess I 22 still object on foundation. 23 He should find the basis of what she 24 knows. Is it double, triple hearsay? Does he want 25 to know her opinion? That is a different question.</p>	<p style="text-align: right;">Page 687</p> <p>1 I think we need more foundation. That is just my 2 objection. 3 THE COURT: I understand. I think it is 4 not offered for its truth, it is just offered for 5 the state of mind. 6 (Thereupon, the sidebar was concluded and 7 the following proceedings were held in open 8 court:) 9 THE COURT: Okay. You can proceed and 10 reask that question. 11 BY MR. GREENFIELD: 12 Q. Ms. Stone, if you have personal knowledge about 13 the circumstances -- let me just ask, do you have 14 any personal knowledge about the circumstances under 15 which Mr. Lindemann, Click and Martin were removed 16 from the executive board? 17 A. Yes, based off of that information that the 18 Union published to the membership and put out. I 19 wasn't a part of the process. 20 Q. Okay. And what is your understanding of why 21 they were removed? 22 A. There were questions about money and funds and 23 the way they were being utilized. 24 There was a presentation that they put together 25 depicting expenditures, attributing it to certain</p>

<p style="text-align: right;">Page 688</p> <p>1 board members. It was shown at some membership 2 meetings, not the others. 3 We are required to present the same information 4 at all membership meetings. A membership meeting is 5 one long meeting that you go to in each domicile to 6 have an opportunity for the members in each domicile 7 to come and stay abreast of union business. 8 So it was a combination of factors. And 9 ultimately it was deemed that some of their actions, 10 while in leadership position, were a violation of 11 our -- not only bylaws, but our TWU International 12 Constitution. 13 Q. Are you aware of any additional actions that 14 the Union took against those individuals? 15 A. Yes. 16 Q. What are those? 17 A. The Union filed a lawsuit because during the 18 time -- under our constitution, there -- just like 19 with Southwest -- there is an investigation, a due 20 process. Someone is not just removed. 21 And so they were suspended and were not allowed 22 to act in their leadership positions during that 23 time. 24 They ignored that. Actually broke into the 25 Union office. Sent Union communications out to the</p>	<p style="text-align: right;">Page 689</p> <p>1 membership with false information in it. And they 2 continued to spend Union dues and continued to act 3 as if they were still in their positions. 4 And the lawsuit filed was to try to recover the 5 money that they illegally spent during that time, as 6 well as to return Union property that the gentlemen 7 were in possession of that they had not turned over 8 upon their removals. 9 Q. And did that -- do you know if that lawsuit was 10 presented to a jury or not? 11 A. I know it went to trial. I believe it was a 12 jury trial. 13 Q. And do you remember the result of that trial? 14 A. The Union -- 15 MR. PRYOR: Object, your Honor. It calls 16 for a legal conclusion. 17 We need more information about what the 18 charges were and what was done. 19 THE COURT: Hold on. That's a speaking 20 objection. If you want a sidebar, you can. 21 MR. PRYOR: Okay. 22 (Thereupon, the following proceedings were 23 had at sidebar:) 24 MR. PRYOR: Results of a jury trial is way 25 ambiguous as to what she's testifying about.</p>
<p style="text-align: right;">Page 690</p> <p>1 MR. GREENFIELD: It is a matter of public 2 record. 3 THE COURT: The judgment was -- 4 MR. GREENFIELD: I would be happy to ask. 5 I have the document if the judge would like judicial 6 notice. 7 MR. PRYOR: As an exhibit? 8 MR. GREENFIELD: No. I have the document. 9 MR. PRYOR: A document. Fine. 10 Let me see it. 11 MR. GREENFIELD: Sure. 12 MR. McKEEBY: We are staying up here. 13 THE COURT: Wise. 14 (Discussion off the record.) 15 MR. GREENFIELD: Amended Judge Tonya 16 Parker. I know her. 17 MR. PRYOR: Let me see it. 18 How much is it? Where is Click? Stacy 19 Martin? 20 MR. GREENFIELD: Well, I will be specific, 21 if you would. 22 MR. PRYOR: Can I see this? 23 THE COURT: \$17,000. 24 You are wanting to do -- what are you 25 wanting?</p>	<p style="text-align: right;">Page 691</p> <p>1 MR. GREENFIELD: I would like to ask her 2 about it. If she doesn't recall, I would like to 3 ask the Court to take judicial notice that a 4 judgment was entered for \$17,570 against Stacy 5 Martin. 6 MR. PRYOR: For what? That is a judgment 7 of 17,000. 8 MR. GREENFIELD: Their entire case is 9 predicated upon the ability to tie protected 10 activity to actions. 11 What these supporters were doing were 12 spotting fraud. They were spotting illegal 13 activity. Their protected activity is lost at that 14 point. At least in the -- 15 I can ask her what she believes. 16 MR. PRYOR: First of all, if you think the 17 centerpiece of it is cause, it is not. But in any 18 event, the recall petition, what you guys were doing 19 to people trying to recall, the \$17,000, what's it 20 for? Against Stacy Martin? It's only relevant if 21 somebody comes in and says what it is for and 22 somehow ties -- 23 THE COURT: She talked about the scope of 24 the lawsuit, right? 25 So I think he can get into judgment. If</p>

<p style="text-align: right;">Page 692</p> <p>1 you want to pick it apart on cross, redirect, I 2 think that is fine. 3 MR. GREENFIELD: I have the charge to the 4 jury as well. 5 THE COURT: You can bring it in. 6 (Thereupon, the sidebar was concluded and 7 the following proceedings were held in open 8 court.) 9 THE COURT: You can proceed, 10 Mr. Greenfield. 11 MR. PRYOR: I have another objection, too, 12 if I can make it up here. I can state it shortly. 13 THE COURT: Let's state it shortly. 14 MR. PRYOR: Okay. I'll wait for the 15 question. 16 THE COURT: Okay. Go for it. 17 You can ask that question now, 18 Mr. Greenfield. 19 BY MR. GREENFIELD: 20 Q. There was a lawsuit brought, and to be fair, do 21 you remember if any of Mr. Lindemann, Mr. Click or 22 Mr. Martin were eventually dismissed from the 23 lawsuit? 24 MR. PRYOR: Was that a yes or no question? 25 I couldn't hear it.</p>	<p style="text-align: right;">Page 693</p> <p>1 MR. GREENFIELD: I asked if she remembered 2 if anyone was dismissed from the lawsuit. 3 MR. PRYOR: Object, leading. Object, 4 relevance. Object, prejudice. Object, lack of 5 foundation. 6 THE COURT: I will allow it. 7 THE WITNESS: I believe that Mr. Click and 8 Mr. Lindemann, yes, I believe they were dismissed. 9 BY MR. GREENFIELD: 10 Q. Leaving the former president, Mr. Martin, in 11 the suit? 12 A. Yes. 13 Q. And if you do have a recollection at all or 14 have personal knowledge, what was the result? 15 MR. PRYOR: Object, compound, so I can 16 form an objection. 17 THE COURT: I don't think it's compound. 18 MR. PRYOR: Okay. Then I object, lack of 19 foundation. Object, relevance and prejudice. 20 THE COURT: Overruled. 21 You can answer. 22 MR. PRYOR: I thought he said belief or 23 personal knowledge, which I thought was two 24 different things. 25 THE COURT: Recollection or personal</p>
<p style="text-align: right;">Page 694</p> <p>1 knowledge, which I think is the same thing. 2 So you can answer the question if you have 3 a recollection or personal knowledge of the result 4 of the suit. 5 THE WITNESS: The result was that 6 Mr. Martin was ordered, I think by the judge, to 7 return any personal property that he had and he was 8 also ordered to -- there was a monetary amount that 9 he was required to pay back the Union to reimburse 10 the money that they had spent during their 11 suspensions. 12 BY MR. GREENFIELD: 13 Q. And do you remember the amount of that money? 14 A. I don't remember the exact amount. 15 Q. If I brought you a document to refresh your 16 recollection, would that help? 17 A. Yes. 18 MR. GREENFIELD: May I approach? 19 THE COURT: You may. 20 BY MR. GREENFIELD: 21 Q. Did that help refresh your recollection? 22 A. Yes. 23 Q. And do you remember what that amount was now? 24 MR. PRYOR: Object, your Honor, to 25 foundation, relevance, prejudice.</p>	<p style="text-align: right;">Page 695</p> <p>1 And let's see if we wait five minutes and 2 see if it refreshes her recollection. 3 THE COURT: I'll overrule those 4 objections. 5 She can answer. 6 THE WITNESS: \$17,530.01, I believe. 7 BY MR. GREENFIELD: 8 Q. That is the amount of money that a jury found 9 that Mr. Martin had inappropriately spent on the 10 Union's behalf? 11 MR. PRYOR: Object, mischaracterizes 12 testimony. Object, leading. 13 THE COURT: I will allow it. 14 THE WITNESS: Yes. 15 MR. GREENFIELD: I have asked our tech 16 person to pull up Exhibit 6, which is the Collective 17 Bargaining Agreement between the Union and TWU, 18 Local 556. 19 THE COURT: It is already in, so we are 20 publishing. 21 MR. GREENFIELD: Thank you. 22 BY MR. GREENFIELD: 23 Q. I believe there was a discussion yesterday 24 about Article III; is that correct? 25 A. Yes.</p>

<p style="text-align: right;">Page 696</p> <p>1 Q. Okay. And can you read silently, as I read 2 below: "The right to manage and direct the working 3 forces subject to the provisions of this agreement 4 is vested and retained by the company." 5 Did I read that correctly? 6 A. Yes. 7 Q. Is that the provision you were trying to recall 8 yesterday? 9 MR. PRYOR: Object, leading. 10 THE COURT: I will allow that. 11 THE WITNESS: Yes, as well as some of the 12 language above in No. 2 where it states, "Employees 13 covered by this agreement shall be governed by all 14 company rules, regulations, and orders previously or 15 hereafter issued by proper authorities of the 16 company." 17 Do you want me to keep reading? 18 Q. That will be fine. Thank you. 19 I would like to go a little bit back in time 20 now. 21 When did you first become a flight attendant at 22 Southwest Airlines? 23 A. June 28, 2004. 18 years ago. 24 Q. And when you became a flight attendant, did you 25 make a decision to be a part of the Union?</p>	<p style="text-align: right;">Page 697</p> <p>1 A. It's a requirement upon -- to be a Southwest 2 flight attendant, it is -- you are a member of the 3 Union upon successful completion of probation unless 4 you voluntarily choose to opt out. 5 Q. And what were your personal feelings about 6 joining the Union? 7 A. I was excited. I didn't know anything about a 8 union. Growing up in East Texas, I hadn't been 9 exposed to it. 10 Someone early on told me to learn the contract, 11 to understand it, and know what my rights were, 12 because they would not always be offered to me. And 13 that there wasn't going to be Southwest reminding 14 me, you know, on some of the contractual provisions 15 that I could exercise. 16 So I started reading and learning about the 17 contract and the Union, you know, as a new 18 experience, as part of my journey with Southwest. 19 Q. And at some point, we know you became president 20 of the Union. 21 When did you become involved with the Union 22 separate from just being a member? 23 A. In I think the end of 2005, maybe early 2006, 24 somewhere in that time frame, another flight 25 attendant and I wrote a book called "Contract</p>
<p style="text-align: right;">Page 698</p> <p>1 Quickies." 2 The contract is very long. It is -- a lot of 3 it is legalese, it does not really include examples, 4 and it is difficult for flight attendants to 5 understand. 6 I thought it would be helpful if there was kind 7 of a more flight attendant-friendly guide that used 8 real-life examples to help explain some of the parts 9 of the contract that really affect us every day when 10 we are working. 11 So we wrote this little book. I was -- I knew 12 an officer at the time for the Union, you know, was 13 talking to him about it. 14 And it came on the Union's radar when the book 15 was -- you know, we were selling it for \$10. 16 When we started selling it, that's -- the Union 17 started, you know, recruiting me to get officially 18 involved, because I was already doing work to 19 educate our membership on my own. 20 I officially became a shop steward in 2006. 21 Q. And what were your duties as a shop steward? 22 A. My duties were assisting our domicile executive 23 board member in the base on anything they needed. 24 They were the elected representative on the 25 executive board.</p>	<p style="text-align: right;">Page 699</p> <p>1 But, you know, whether it was lounge and 2 helping them with lounge mobilizations where we 3 would go out and talk to flight attendants about 4 current events or hot topics, particularly during 5 negotiations. 6 Another responsibility was to represent flight 7 attendants in any mandatory meetings with members of 8 Southwest Airlines's management. 9 That included representing them not only in the 10 meeting, documenting the meetings, submitting those 11 to the Union. Sort of general shop steward 12 responsibilities. 13 Q. Did you hold any other positions outside of 14 shop steward before your presidency? 15 A. Yes. 16 Q. What else? 17 A. During the tentative agreement rollout of a 18 contract in 2009, I was on what at the time was 19 called the contract action team. 20 In the base, later on in my -- the same thing 21 that later on in my administration we referred to as 22 CAN. 23 But spending time in the bases, kind of the 24 liaison between the negotiating team and 25 rank-and-file flight attendants, to help them</p>

<p style="text-align: right;">Page 700</p> <p>1 understand the changes in the contract, make sure 2 everyone is making an educated vote, direct them to 3 negotiating team members if they needed to be. 4 I also became the Baltimore domicile executive 5 board member in 2008. 6 Also was the co-chairperson and chairperson of 7 our education committee. 8 I worked with our grievance team on Board of 9 Adjustments and arbitration work, which was 10 grievances that the Union was taking forward in 11 representation of memberships, of actually putting 12 those cases on in front of either Board of 13 Adjustment or an arbitrator. 14 Q. That will suffice. That's all right. 15 Did you hold any other offices or positions in 16 between that and becoming president? 17 A. I continued to hold the position of shop 18 steward throughout my Southwest career. I'm still a 19 shop steward. 20 And then I also held the title -- held the 21 position of first vice president briefly before 22 assuming the presidency. 23 Q. Okay. Why did you run for office? 24 A. Advocacy is -- is work I'm passionate about. 25 Prior to Southwest, I worked in the children's</p>	<p style="text-align: right;">Page 701</p> <p>1 mental health field and was an advocate for children 2 and adolescents who struggled with mental health 3 issues, as well as working with their families. 4 Union work was a different work group, but to 5 me, it was still about advocating for the -- 6 advocating for people, and I have always been 7 passionate about education. 8 So I had started doing union work, really 9 enjoyed the work and thought I could make a 10 difference, and that is ultimately why I decided to 11 run. 12 Q. Okay. And when you ultimately became president 13 of the Union, did Southwest Airlines present you any 14 paperwork related to you becoming president? 15 A. No. 16 Q. Did they ask you to sign anything that said, 17 when you became president, that you had to give up 18 your rights as an employee? 19 MR. PRYOR: Object, leading. 20 THE COURT: I will sustain that one. 21 Can you rephrase? 22 MR. GREENFIELD: Yes, your Honor. 23 BY MR. GREENFIELD: 24 Q. Did you ever sign any documents that 25 relinquished your rights as an employee of Southwest</p>
<p style="text-align: right;">Page 702</p> <p>1 Airlines? 2 MR. PRYOR: Same objection 3 THE COURT: That one's good. 4 Overruled. 5 THE WITNESS: No. 6 BY MR. GREENFIELD: 7 Q. Were you ever under the impression that when 8 you became president, you relinquished your rights 9 as a Southwest employee? 10 MR. PRYOR: Object, leading. 11 THE COURT: I will overrule that. 12 You can answer. 13 THE WITNESS: No. 14 BY MR. GREENFIELD: 15 Q. Okay. We've talked -- I found this out for the 16 first time today about your book. 17 Are you an attorney? 18 A. No. 19 Q. Do you find, to this day, portions of the 20 Collective Bargaining Agreement difficult for you to 21 work through? 22 MR. PRYOR: Object, leading. 23 THE COURT: I will allow that. 24 THE WITNESS: Yes. 25</p>	<p style="text-align: right;">Page 703</p> <p>1 BY MR. GREENFIELD: 2 Q. And when you were -- let me take a step back. 3 At some point when you became president, you 4 also became lead negotiator for the CBA, correct? 5 MR. PRYOR: Object, leading. 6 THE COURT: I will allow that. 7 THE WITNESS: Yes. 8 BY MR. GREENFIELD: 9 Q. Did you do that yourself or were you a member 10 of a team doing that negotiation? 11 A. I was a member of a 5 percent negotiating team. 12 Under our bylaws, the president is also lead 13 negotiator. So I had four other team members. 14 Q. So as I understand it, when you became 15 president per the bylaws, you became lead 16 negotiator? 17 A. Yes. 18 Q. And on that team, on your negotiating team, 19 were there any legal representatives to help you? 20 A. Yes. 21 Q. And who was that? 22 A. We had -- we had two that represented us 23 throughout our contract negotiations, both through a 24 labor firm out of Miami, Phillips and Richard. 25 Mark Richard was our primary attorney at the</p>

<p style="text-align: right;">Page 704</p> <p>1 bargaining table, and then one of his associates, 2 Jeff Bott, also assisted at times. 3 Q. And who made the decision to bring them on to 4 the negotiating team? 5 A. Mr. Richard had been the Union's attorney for 6 contract negotiations since before I worked for 7 Southwest Airlines. He had already at that time 8 worked with the Union to negotiate two different 9 industry-leading contracts. 10 And when I came onto the team as lead 11 negotiator, they had already been prepping and 12 working on negotiations. 13 So it was already decided that he would 14 continue that role that he had been serving for many 15 years. 16 Q. So when you came on to work on the negotiating 17 team, negotiations had already been ongoing? 18 A. They had not been ongoing, but preparation for 19 them had been going on, because our contract became 20 amendable June 1st, 2013, and there is work that you 21 have to do to prepare before you actually just sit 22 down and start negotiating with Southwest Airlines. 23 A lot of research, behind-the-scenes work. 24 And the negotiating team had already started 25 that process under the president that was -- that</p>	<p style="text-align: right;">Page 705</p> <p>1 was removed. 2 The timing of those removals and the changeover 3 in leadership happened just before our contract 4 became amendable, and we were due to start 5 negotiations early in June. So there, again, had 6 been work that was behind the scenes, had been 7 performed by the negotiating team prior to my 8 arrival. 9 Q. Are you aware if the attorneys you just 10 mentioned were advising the negotiating team before 11 you joined? 12 MR. PRYOR: Object, leading. 13 THE COURT: I will allow that. 14 THE WITNESS: I -- I know that they had 15 spoken. I know that there had been conversations 16 that happened, that had happened prior, just as 17 preparation. 18 I also forgot to mention that our -- at 19 the time our TW International rep, representative 20 Garry Drummond, was also assisting the negotiating 21 team. 22 BY MR. GREENFIELD: 23 Q. Very good. 24 Before you joined the Union, did you understand 25 what a union was and what a union did?</p>
<p style="text-align: right;">Page 706</p> <p>1 A. Not well. I had a general sense that a union, 2 you know, was to help workers' rights. 3 The union -- the then-union administration, 4 when I was in Southwest training, did a little 5 exercise for the candidates that was very 6 illustrative to me and stuck with me. Really kind 7 of the lightbulb going off exactly in real life what 8 a union can do for people. 9 Q. Can you elaborate on that? 10 A. Um, our then-president at the time was speaking 11 to the class in the front of the room, and he asked 12 us all to stand up, and he said he was going to ask 13 a series of questions. And we didn't need to answer 14 out loud, but if our personal answer to any of the 15 questions was no, we needed to sit down. 16 And he started asking questions, like, um, are 17 you under 5'7 in height? Are you over 5'10? Do you 18 wear contacts or glasses? Do you wear glasses? 19 And he's going through and more people sit 20 down. 21 And he said, Are you male? 22 Eventually it got really personal and he asked 23 about weight. Do you weigh over I think it was 24 130 pounds. 25 And by the end -- age, too, I think was</p>	<p style="text-align: right;">Page 707</p> <p>1 another -- I don't remember all of them. 2 But by the end, I think there was one person 3 left standing in my -- in my class. At the time it 4 started with I think around 75 people. 5 And his comment was that, prior to the Union 6 being on property at Southwest Airlines, the only 7 person in that room that would have even been 8 qualified or eligible to apply to be a flight 9 attendant under their standards was that one person 10 left standing. 11 I never forgot that. 12 And the -- what a union means, it goes so far 13 beyond even negotiating rates of pay, that it opened 14 doors for people to do careers they never thought 15 were possible, especially because I was one of those 16 people sitting down. 17 Married was another question that I forgot. 18 Children. 19 And it is an exercise that I used during my 20 presidency when I spoke to the new-hire classes, 21 because I was that person sitting in the room that 22 really just had a kind of overview of unions but 23 didn't really understand what being a member of a 24 union meant or how it pertained to me even having 25 the opportunity to be in that room.</p>

<p style="text-align: right;">Page 708</p> <p>1 Q. Okay. I would like to turn to the specifics 2 of -- 3 THE COURT: I'm wondering about breaking 4 for lunch a few minutes early because we gave you 5 your morning break so early that y'all may be ready 6 for lunch. 7 So are you okay now that I have totally 8 interrupted your flow, Mr. Greenfield, for me to 9 call that lunch break? 10 MR. GREENFIELD: If I said no -- of 11 course, your Honor. It is okay if you do. 12 THE COURT: Okay. 13 So the same instructions as always. You 14 can only talk to your fellow jurors and court 15 personnel, just not about the case, and please don't 16 do any research on the case. 17 We will see you in one hour, at 12:53. 18 All rise for the jury. 19 (The jurors exited the courtroom.) 20 THE COURT: Before you leave the stand, I 21 will just say, can we do the voir dire questions at 22 the end? 23 We have been on the record so long. 24 MR. PRYOR: That is fine. 25 THE COURT: Okay.</p>	<p style="text-align: right;">Page 709</p> <p>1 So they were asking to ask you questions 2 about a topic I've said the jury doesn't need to 3 hear about, but the lawyers are entitled to ask you 4 a couple of questions about one of those topics. 5 So let's come back at basically 55 minutes 6 from now. We will let you ask those questions, and 7 then we will bring in the jury and keep rolling with 8 your questions, Mr. Greenfield. 9 So you are free to leave the stand. Still 10 can't talk to anyone about the case. 11 (Thereupon, the witness exited the 12 courtroom.) 13 THE COURT: So anything anyone else has 14 that we need to talk about now? 15 Okay. Good to go. 16 Thank you. 17 (Recess.) 18 THE COURT SECURITY OFFICER: All rise. 19 THE COURT: Thank you. You can be seated. 20 All right. And just a heads up, we are 21 going to email y'all the current trial clock as of 22 the lunch break. 23 So this relates back to what I mentioned 24 earlier, Ms. Stone, there are things that I cut out 25 of this case, like what did Southwest do to any</p>
<p style="text-align: right;">Page 710</p> <p>1 employee. But there are times when a lawyer will 2 have a question that I don't let in front of the 3 jury, but it is appropriate for me to let them ask 4 you that question when the jury is not in the room. 5 So I will let you ask that question on 6 Jeanna Jackson. 7 MR. PRYOR: Thank you, Your Honor. For 8 clarification, this is not jury time, right? 9 THE COURT: This is not jury time, yeah, 10 that's correct. But you can't go beyond the scope 11 we talked about. 12 MR. PRYOR: Fair enough. 13 THE COURT: You can't ask anything you 14 want to. 15 MR. PRYOR: This will be very short. 16 BY MR. PRYOR: 17 Q. Ma'am, do you know what happened in regard to 18 any investigation by Southwest Airlines into Jeanna 19 Jackson as to any punishment she received? 20 A. I know that she was suspended, I believe twice, 21 following some sort of social media complaint and 22 violation and investigation. 23 Q. Was that as a result of a complaint that you 24 brought or Mr. Talburt or any other union member 25 that you know of?</p>	<p style="text-align: right;">Page 711</p> <p>1 A. I do not believe it was result of a complaint I 2 brought. I am not certain who brought forward the 3 complaints that resulted in those suspensions. 4 MR. PRYOR: That ends our offer. 5 THE COURT: Thank you. I appreciate that. 6 Anything else before we bring in the jury? 7 MR. PRYOR: Yes, your Honor. 8 THE COURT: What have you got? 9 MR. PRYOR: Your Honor, plaintiffs would 10 request additional jury time. 11 And from our conversation this morning, 12 when you were saying that you thought that I didn't 13 need to go through each of the documents, I told you 14 my recollection was I tried to do it globally and 15 she wouldn't let me. 16 The transcript shows on page 525, it says, Did 17 you receive the communications -- first of all, when 18 Ms. Carter sent you the communications, did you read 19 them? 20 Not all of them. 21 Which ones did you read? 22 I couldn't even tell you which ones I read, 23 there were so many. 24 "QUESTION: At some point, did you stop reading 25 them?</p>

<p style="text-align: right;">Page 712</p> <p>1 "ANSWER: Yes."</p> <p>2 In the ones that you read, she was complaining</p> <p>3 about things you or the union were doing, correct?</p> <p>4 So I tried to ask it globally.</p> <p>5 and her answer was, Not always.</p> <p>6 Then I said, You are going to tell us that we</p> <p>7 are going to have go and see an email or Facebook</p> <p>8 communication from her where she's not talking about</p> <p>9 a complaint to the union, true?</p> <p>10 So I tried again to get her to go with me on</p> <p>11 it.</p> <p>12 THE COURT: I get that. What's your</p> <p>13 request?</p> <p>14 So you are saying that you had to ask</p> <p>15 additional minutes that you hoped to not have to</p> <p>16 ask? How much extra time do you think you burned on</p> <p>17 that?</p> <p>18 MR. PRYOR: No. No, no. I'm responding</p> <p>19 to your comment this morning. Not because of this,</p> <p>20 no. We need quite a bit more additional time for</p> <p>21 other reasons. I'm saying, you felt like this</p> <p>22 morning, that if we requested additional time, that</p> <p>23 you would not be amenable.</p> <p>24 You know, I'm not saying I'm the most</p> <p>25 efficient attorney that ever tried a case, but the</p>	<p style="text-align: right;">Page 713</p> <p>1 example you gave, I was doing what I had to do to</p> <p>2 show protected union activity. That is our burden</p> <p>3 to the jury for every one of these communications.</p> <p>4 And I tried to do it globally.</p> <p>5 So and you certainly came up with a better</p> <p>6 solution, although she still took over five minutes</p> <p>7 this morning, sitting and reading -- which is fine.</p> <p>8 I think that actually went quicker.</p> <p>9 But, your Honor, at this point, this was a</p> <p>10 key witness, it was central to this case, and we</p> <p>11 think that the time spent with her was valuable to</p> <p>12 prove our case.</p> <p>13 We don't think that we wasted such time</p> <p>14 that the Court should deny the time for additional</p> <p>15 request.</p> <p>16 We have 15 witnesses and we are -- we have</p> <p>17 been spending the lunch hour trying to figure what</p> <p>18 we can cut. We can cut some witnesses. I think</p> <p>19 that it -- it doesn't afford our client the trial</p> <p>20 that she's entitled, but I certainly wouldn't rise</p> <p>21 it to the level of saying that it denies her a trial</p> <p>22 or is incomprehensible to a jury.</p> <p>23 However, if we are held to the current</p> <p>24 timeline, it will. We will not be able to -- we are</p> <p>25 going to have to cut crucial witnesses and crucial</p>
<p style="text-align: right;">Page 714</p> <p>1 testimony that we think denies our client a trial if</p> <p>2 the Court stays with the current time limit.</p> <p>3 We would request additional time. Like I</p> <p>4 say, we are willing to cut witnesses that fall</p> <p>5 outside -- that we would like to have, but that fall</p> <p>6 outside, really, the due process aspect of the</p> <p>7 trial.</p> <p>8 So we need additional time, and I'm making</p> <p>9 the request now, because we are going to have to</p> <p>10 make those decisions now.</p> <p>11 THE COURT: I understand your request.</p> <p>12 I'm going to deny it at this point in time and I</p> <p>13 will say on the record why.</p> <p>14 What I was trying to preview this morning,</p> <p>15 what my rationale was, I will say in the last trial</p> <p>16 I had, the Government asked for more time when they</p> <p>17 had three hours on the clock. And I said, It is too</p> <p>18 early. Let's see how you use your three hours.</p> <p>19 They used them wisely and didn't need more time.</p> <p>20 At this point, when you got over five</p> <p>21 hours left, I think that you still have time to</p> <p>22 adjust. I haven't seen the adjustments. I know at</p> <p>23 the start of the day, you said you'd spend an hour,</p> <p>24 and you spent more. And so I need to see you</p> <p>25 adjusting to the efficiency curve.</p>	<p style="text-align: right;">Page 715</p> <p>1 By that, I don't mean cutting witnesses, I</p> <p>2 mean cutting questions. What do you want the jury a</p> <p>3 week from now to really understand that that witness</p> <p>4 said. Right? They will probably have three or four</p> <p>5 takeaways from each witness. What are they going to</p> <p>6 say?</p> <p>7 Most witnesses can be done in half hour,</p> <p>8 45 minutes. I know this witness was crucial. I</p> <p>9 don't think crucial warrants over six hours.</p> <p>10 So all of that to say, I get your request,</p> <p>11 and I am inclined to try to find more time to give</p> <p>12 you, but I can't give you the full measure of time</p> <p>13 you seek. And I think whatever time I decide to</p> <p>14 give you, it is premature for me say at this point</p> <p>15 in time what that amount would be.</p> <p>16 MR. PRYOR: Your Honor, to respond to your</p> <p>17 "you want to see," respectfully, I was trying to</p> <p>18 allow you to see that this morning. There were</p> <p>19 additional issues that came up, but I certainly</p> <p>20 truncated or I thought was more concise. The Court</p> <p>21 is the one that -- the opinion that matters.</p> <p>22 We have decided to, at this point, with no</p> <p>23 additional time being offered, not call Mr. Parrott,</p> <p>24 not call Ms. Parker, not call Mr. Conlon. We</p> <p>25 believe those witnesses are important to this case,</p>

<p style="text-align: right;">Page 716</p> <p>1 but because of the Court's ruling, we cannot call 2 them. 3 Mr. Sims we will hold in abeyance in terms 4 of the order of witnesses, and at this point put him 5 to the end, hoping that we have additional time or 6 that there is time remaining. 7 We would still call, then, after that, in 8 order, Mr. Schneider, Ms. Hudson, Ms. Lacore, 9 probably cutting Ms. Emlet, and we have cut back the 10 designations on Mr. Talburt substantially. And we 11 will share those cutbacks with counsel -- we have 12 done them at the lunch hour -- so that we are 13 cutting his time back. 14 And we are -- 15 THE COURT: For any witness -- 16 MR. PRYOR: -- Ms. Carter. 17 THE COURT: Understood. And for any 18 witness who we have by depo, you are free to do 19 that. 20 MR. MORRIS: I'm sorry? 21 THE COURT: You are free to do that for 22 any witness who we have by depo. Right? If there 23 are three or four things you want the jury to take 24 away from that witness, you are fine to cut it down 25 to those things.</p>	<p style="text-align: right;">Page 717</p> <p>1 Which is what I've seen lawyers do in the 2 past. 3 MR. PRYOR: We will cut them all. And 4 Mr. Talburt's is being cut right now. He's our next 5 witness. So we will -- we cut it substantially. 6 So we are trying very hard. And I respect 7 the Court's opinion. I want you to see that we were 8 trying to respond to your concerns, and I still 9 believe we will need additional time -- 10 THE COURT: Understood. And I will still 11 entertain that request. All right? And I am still 12 trying to crunch numbers on my end to see what we 13 have to give. 14 MR. PRYOR: Thank you, Your Honor 15 MR. McKEEBY: And I'm not sure if I heard 16 Ms. Lacore, I know I did not hear Ms. Schaffer in 17 that recitation. Can either or both of them be 18 released from their trial subpoenas? 19 MR. PRYOR: No. We -- if I didn't say 20 Ms. Lacore, I meant to. I would say we are still 21 doing Mr. Schneider. Mr. Schneider is a witness 22 that, unfortunately, will take some time. 23 Ms. Hudson and Ms. Lacore can be shorter, but we 24 need them. And Emlet, at this point, again, without 25 additional time, we would cut.</p>
<p style="text-align: right;">Page 718</p> <p>1 THE COURT: Well, and I'm not -- I don't 2 think you should cut any trial subpoenas, right? 3 MR. PRYOR: No. I don't -- I'm just 4 telling the Court -- no, no, no, let me be clear. 5 If I get more time, I want all of these 6 witnesses. 7 THE COURT: I get that. 8 MR. PRYOR: If I have enough time. But 9 under the time constraints that we currently have, 10 those witnesses that we think should be called, we 11 cannot call. 12 THE COURT: Understood. Mr. Greenfield. 13 MR. GREENFIELD: Mr. Parrott is dutifully 14 waiting in the hall again most of this day. Can we 15 release him, then? 16 THE COURT: I can't release someone from a 17 trial subpoena -- I should say, I'm not going to 18 release someone from a trial subpoena. 19 MR. GREENFIELD: Not from a subpoena, Your 20 Honor, just as a witness today. 21 MR. PRYOR: Yeah. And I'm unwilling to 22 release him from the subpoena, but I'm willing to 23 let him leave the courtroom now, and be on a one- or 24 two-hour call, if that works. 25 MR. GREENFIELD: It does. Thank you.</p>	<p style="text-align: right;">Page 719</p> <p>1 THE COURT: All right. Let's bring in the 2 jury. I want to make sure we maximize our time with 3 them, because that gives me more time to give you at 4 the end. If we spend all our day in sidebar with 5 them out of the room, then I have no more time to 6 give. 7 THE COURT SECURITY OFFICER: All rise for 8 the jury. 9 (The jurors entered the courtroom.) 10 THE COURT: Thank you. You can be seated. 11 And, Mr. Greenfield, you can continue. 12 CROSS-EXAMINATION - CONTINUED 13 MR. GREENFIELD: Your Honor, before the 14 break, we discussed Exhibit No. 134, as did 15 plaintiff in their examination of Ms. Stone. But I 16 don't believe it was ever offered into evidence. We 17 would like to do that at this time. 18 THE COURT: Okay. 134. Any objection to 19 134 coming into evidence from Carter -- or from 20 Southwest? 21 MR. McKEEBY: No objection from Southwest. 22 MR. PRYOR: No objection. 23 THE COURT: Okay. 134 is in. We will 24 publish. 25</p>

<p style="text-align: right;">Page 720</p> <p>1 (The referred-to document was admitted in 2 Evidence as Trial Exhibit 134.) 3 BY MR. GREENFIELD: 4 Q. Ms. Stone, welcome back from lunch. You 5 understand you are still under oath at this time? 6 A. Yes, sir. 7 Q. Okay. Now that we have all eaten lunch and are 8 probably going to be a little bit sleepy, I'm going 9 to go ahead and ask you some boring questions and 10 hope everyone doesn't fall asleep. 11 I would like to talk to you just a little bit 12 about unions and union operations in general. 13 Can you tell the jury a little bit about the 14 structure of TWU Local 556, as a union? 15 A. Our structure is initially governed by the TWU 16 international constitution, which it states that a 17 local elected executive board will be the governing 18 body of the local union. 19 The executive board is made up of flight 20 attendants. The size is determined based on the 21 size of the membership. So the larger the 22 membership, potentially the larger -- there is a 23 formula used to determine how many -- the size of 24 the executive board. 25 During my administration, the executive board</p>	<p style="text-align: right;">Page 721</p> <p>1 was made up of 17 flight attendants. 2 That is who made, you know, decisions overall 3 about the running of the union. But then within our 4 Local 556 bylaws, which were voted on by the 5 membership, there are different duties assigned to 6 the various board members. 7 Some are very specific, like the president is 8 responsible for staffing the union office, with 9 executive board approval, down to listing 10 responsibilities of the treasurer, for his or her 11 day-to-day job. 12 We also had flight attendants who were what we 13 would call on a full-time union pull. Which means 14 they are still considered a Southwest Airlines 15 flight attendant, but they are working in a 16 full-time capacity for the union. 17 They worked seven days a week, actually, in our 18 union office, answering phone calls, filing 19 grievances on behalf of the membership, the 20 day-to-day direct contact in membership questions. 21 Then we also had various committees, I think 22 over 20, that were comprised of flight attendants. 23 The committees, I think I mentioned earlier, 24 education committee responsible for helping educate 25 our flight attendants on hot topics, contractual</p>
<p style="text-align: right;">Page 722</p> <p>1 issues. 2 We talked about the negotiating committee. And 3 a few joint committees within Southwest. 4 So primarily, all flight attendants that are 5 doing the day-to-day business, we had a -- one, when 6 I started, and then it grew to, I believe, three, 7 non-flight attendant staff working in our union 8 office. 9 An IT person. We had someone -- basically, it 10 is the check and balances for payroll, who is not a 11 flight attendant. 12 And then we also, we had two -- actually, four, 13 by the time I left -- non-flight attendant staff 14 positions. 15 But outside of those four people, union 16 leadership, committee involvement are made up flight 17 attendants who are union members. So I will stop 18 there. 19 Q. I think everyone is still awake. Thank you, 20 Ms. Stone. 21 I would like to talk to you about two specific 22 items that you brought up a second ago, and I would 23 like to start with the executive board. 24 How does the executive board of the union come 25 into position?</p>	<p style="text-align: right;">Page 723</p> <p>1 A. Currently, under our bylaws, executive board 2 elections are held every three years. The entire 3 executive board is up for reelection at the same 4 time. We don't have staggered elections. So all 5 active members have an opportunity to participate 6 and vote. 7 The domicile executive board member positions 8 are only voted on by the members into those 9 respective domiciles, or we call them bases, where 10 we are stationed out of for work. 11 Any national board position or officer is voted 12 on by the entire membership body, regardless of 13 where they are based. 14 And then we have language in our bylaws that 15 dictate in the event somewhere in the three-year 16 election cycle there becomes a vacancy on the 17 executive board, how that process works to fill the 18 vacancy until the next election, under that process. 19 If the vacancy occurs in the first half of the 20 term, which is the first 18 months, then the 21 position is offered to the next highest vote getter 22 for that position, in the -- in the previous 23 election. 24 Under our bylaws, in the second half of the 18 25 months of the term, then the executive board is</p>

<p style="text-align: right;">Page 724</p> <p>1 responsible for -- responsible for appointing the 2 vacancy for that position. 3 Q. Thank you. 4 And that process you just described as far as 5 vacancies, et cetera, was that at play when you 6 became president the first time around? 7 A. Yes. 8 Q. Okay. And is that how you ultimately became 9 president? 10 A. Yes. 11 Q. Okay. And at some point, you ran for 12 reelection. I believe you said after a three-year 13 term? 14 A. It was roughly just under two years after I 15 became president. I became president in 2013, 16 approximately one year into that term. 17 And I ran for -- I ran in the election in early 18 2015 for the president position. 19 Q. And what did the membership decide on your 20 reelection campaign? 21 A. I was voted in as president. 22 Q. Okay, thank you. 23 You talked about voting and voting for 24 executive boards. Are all union members allowed to 25 vote?</p>	<p style="text-align: right;">Page 725</p> <p>1 A. All union members are allowed to vote, yes. 2 Q. Is there any group of individuals that are 3 flight attendants of Southwest Airlines that are not 4 allowed to vote? 5 A. Yes. 6 Q. Who is that group? 7 A. Two groups. Probationaries. So any flight 8 attendant that is currently on probation under our 9 Southwest Airlines contract. A flight attendant is 10 on probation their first six months of employment 11 after successfully completing training. And because 12 they don't actually become a full member until the 13 completion of probation, they are not allowed to 14 vote in an election. Or if they do, their vote is 15 removed or not counted. 16 And then, anyone who is no longer a member of 17 the union because they have chosen to opt out of the 18 union, they are not allowed to vote in any or 19 participate in any union election. 20 Q. And are those individuals referred to as AFOs, 21 or objectors, as we heard earlier? Is that what you 22 are describing? 23 A. Yes. All of the same group of people, 24 different terms. 25 Q. So what is an objector, Ms. Stone?</p>
<p style="text-align: right;">Page 726</p> <p>1 A. An objector is someone who has chosen to opt 2 out of the union. Our agency -- it is called agency 3 fee policy is set by TW International. They 4 determine, for the people that have opted out of the 5 union, what percentage of their union dues are going 6 to be refunded to them each year. 7 They do the calculations, and send it to all of 8 the locals as to what that -- they handle that 9 piece. But it is whatever percentage of union dues 10 was not spent directly on -- basically, membership 11 representation. 12 That could be the day-to-day running of the 13 union office, contract negotiations, anything 14 related to that. 15 The pieces that are excluded and refunded back 16 are, for example, charitable donations. That falls 17 outside the scope of direct member representation. 18 And so that is one of the categories that they 19 utilize to determine the percentage of dues that is 20 refunded to an agency fee payor or someone who has 21 opted out, or an objector. 22 Q. Are there any specific rights that agency fee 23 objectors lose when they opt out of the union, as 24 far as their participation in union activities? 25 A. Yes.</p>	<p style="text-align: right;">Page 727</p> <p>1 Q. What are those? Sorry. 2 A. By choosing to opt out, they completely lose 3 their voice in terms of getting to participate in -- 4 not only the election, they can't attend any kind of 5 union meeting. Whether it is a membership meeting, 6 a special meeting held, you are not allowed to 7 participate at all in any of the activities of the 8 union. 9 Q. Okay. Now, to tie that back to what you 10 discussed as far as the structure of the union, you 11 discussed grievances. Okay? 12 Are -- tell me broadly about the grievance 13 process at Southwest Airlines in relationship to the 14 union's role. 15 A. We have a lot of contract language in Article 16 19 and 20 that go through both side's 17 responsibilities. We have time frames associated 18 with all grievances that are outlined in the 19 contract. 20 Any time a flight attendant has either a 21 question about whether they might have a grievance, 22 or believe they have a grievance, then they are 23 directed to contact the union office, speak to one 24 of our flight attendants there that works in the 25 union office. And if a flight attendant chooses to</p>

<p style="text-align: right;">Page 728</p> <p>1 file a grievance, then the union should file it --</p> <p>2 should file a grievance on the flight attendant's</p> <p>3 behalf.</p> <p>4 We file grievances from everyone. Someone who</p> <p>5 has opted out of the union, it does not preclude</p> <p>6 them from having union representation for the union</p> <p>7 answering contract questions they may have or from</p> <p>8 filing a grievance. We still have a responsibility</p> <p>9 to file a grievance and represent them, if they</p> <p>10 request union representation.</p> <p>11 The contract outlines next steps of the</p> <p>12 grievance process, and again, time frames of how --</p> <p>13 when a flight attendant has a responsibility to even</p> <p>14 notify and file a grievance, as well as on the</p> <p>15 opposite side, how long Southwest has to</p> <p>16 investigate, respond, et cetera. Whether it is a</p> <p>17 contractual grievance or a discipline case that has</p> <p>18 been initiated by Southwest Airlines.</p> <p>19 Q. From a 5,000-foot view, can you take us through</p> <p>20 the steps of the grievance process if a complaint</p> <p>21 had been filed against a flight attendant, and the</p> <p>22 union's role in that representation through that</p> <p>23 grievance process?</p> <p>24 A. Just to clarify, so, like a potential</p> <p>25 discipline grievance?</p>	<p style="text-align: right;">Page 729</p> <p>1 Q. Yes. Perfect.</p> <p>2 A. Okay. We would find out about it if the flight</p> <p>3 attendant contacted the union office and said that</p> <p>4 Southwest Airlines is calling them in for what is</p> <p>5 commonly referred as a "fact-finding meeting."</p> <p>6 Fact-finding meetings can result in discipline.</p> <p>7 We always encourage people to take any</p> <p>8 representation into those meetings.</p> <p>9 We have -- any flight attendant working in the</p> <p>10 grievance office could set that up, but we -- at</p> <p>11 least under my administration -- tended to have</p> <p>12 people whose kind of primary job was that, who know</p> <p>13 who the shop stewards are on the base. That -- if</p> <p>14 the flight attendant specifically requested a</p> <p>15 certain shop steward or the domicile executive board</p> <p>16 member, then the person working in the office would</p> <p>17 start working on seeing if that person is available,</p> <p>18 could that request be accommodated, when is</p> <p>19 Southwest wanting the meeting to be held.</p> <p>20 The union office will also coordinate if the</p> <p>21 meeting time or date needs to be shifted to</p> <p>22 accommodate everybody's schedule.</p> <p>23 The union office will coordinate with the shop</p> <p>24 steward or domicile executive board member that is</p> <p>25 going to be representing them on the details as we</p>
<p style="text-align: right;">Page 730</p> <p>1 know them at that time, whatever the flight</p> <p>2 attendant has been told.</p> <p>3 And then whoever is assigned to be their</p> <p>4 representative should be making contact with them in</p> <p>5 advance of the meeting, trying to find out from the</p> <p>6 flight attendant, is there any additional</p> <p>7 information, is there -- do you know what this could</p> <p>8 be about, trying to get as ready as possible sitting</p> <p>9 down with the flight attendant. And then that</p> <p>10 representative accompanies the flight attendant into</p> <p>11 the meeting.</p> <p>12 They are, I believe, always held on Southwest</p> <p>13 property. And Southwest usually has somebody</p> <p>14 conducting the meeting, leading the meeting, as well</p> <p>15 as somebody taking notes.</p> <p>16 Whoever the union's representative is, is</p> <p>17 responsible to take notes, as well as be the</p> <p>18 advocate, when needed, for the flight attendant</p> <p>19 during the meeting.</p> <p>20 And part of their job is to make sure that</p> <p>21 Southwest is abiding by the language of the contract</p> <p>22 and conducting what should be a fair and thorough</p> <p>23 meeting, as part of the investigation process,</p> <p>24 outlined in our contract.</p> <p>25 Once the meeting concludes, the representative</p>	<p style="text-align: right;">Page 731</p> <p>1 should submit their notes back to the union office,</p> <p>2 so that the union has a record of what happened in</p> <p>3 that meeting, so that the union knows when the</p> <p>4 deadline is for Southwest Airlines to issue a</p> <p>5 decision in the case.</p> <p>6 Because if they fail to meet that time frame,</p> <p>7 then it is -- it is over, and they can't come back</p> <p>8 later and try to issue discipline for that</p> <p>9 infraction.</p> <p>10 If they issue discipline, the flight attendant</p> <p>11 has the option to grieve that discipline under the</p> <p>12 Collective Bargaining Agreement.</p> <p>13 And if they grieve it at that point, it would</p> <p>14 then -- the case would be turned over to someone</p> <p>15 that we call -- I believe they are still called a</p> <p>16 grievance specialist.</p> <p>17 So it is someone whose primary job working in</p> <p>18 the union office is to file grievances and work on</p> <p>19 those.</p> <p>20 Under my administration, it tended to be a</p> <p>21 rotation. We had a grievance chairperson, who</p> <p>22 oversaw the grievance specialist, and she kept track</p> <p>23 of case loads. So when a grievance came in, looking</p> <p>24 to see, it was kind of like who was next to take --</p> <p>25 to take a case, the availability to take a case.</p>

<p style="text-align: right;">Page 732</p> <p>1 That is how cases were assigned, in terms of who was 2 going to be handling it. 3 And then once the grievance specialist has it, 4 the next step in the process would be working with 5 Southwest Airlines to schedule what is called a Step 6 2 hearing, which is the first -- well, second piece, 7 I guess, in the appeal process, if you look at 8 filing the grievance -- filing the grievance itself 9 is the first step in appealing a decision Southwest 10 made. 11 Then the second step would be what is called a 12 Step 2 hearing, where grievance specialists, union 13 reps could accompany the flight attendant to another 14 meeting of Southwest management. But the person 15 hearing the meeting is not going to be somebody from 16 that base, and it is somebody that is in a higher 17 position then whoever made the decision to issue 18 discipline. 19 Step 2 process, Southwest has the option to 20 agree to the grievance, deny the grievance, or offer 21 a settlement, you know, which could be accepting 22 parts of the agreement, not others. 23 After a Step 2 hearing, if -- if a discipline 24 is not removed and a flight attendant wishes to 25 continue through the grievance process, then the</p>	<p style="text-align: right;">Page 733</p> <p>1 next step would be for the case to come before the 2 executive board of the union, as the final governing 3 body of the union. 4 The grievance specialist would put together a 5 packet full of all of the information, the notes 6 from the two meetings that happened so far. Any 7 relevant information or documentation the flight 8 attendant has been able to provide, whatever 9 Southwest Airlines has utilized in determining their 10 decision for discipline. 11 And then the case comes before the executive 12 board. 13 The flight attendant has the right at any point 14 in this process to withdraw their grievance if they 15 don't want to continue. 16 The case comes before the executive board. The 17 executive board hears the case, votes on the merits 18 of the case. 19 Voting members of the executive board are 20 everyone present except the chairperson in the 21 meeting. I think I mentioned yesterday, as the 22 president, I was almost always also required to be 23 the chairperson of the meeting. Only, though, in 24 cases of a tie. 25 The executive board, once they make a vote, it</p>
<p style="text-align: right;">Page 734</p> <p>1 is either going to continue the grievance through 2 the process, or that the grievance, they don't 3 believe, has enough merit to stand up to continuing 4 through the process to go all the way to either a 5 Board of Adjustment or an arbitration hearing. 6 In a discipline case, if the executive board 7 votes not to proceed, the flight attendant still has 8 the right to continue on through the grievance 9 process, but they would need to release the union 10 and continue on, on their own. 11 In a contractual case, a flight attendant 12 wouldn't have the option to continue fighting a 13 contractual case without the union's representation. 14 And then if it goes all the way to a hearing of 15 either a Board of Adjustment or an arbitration. 16 Arbitration is the last step. 17 MR. PRYOR: Your Honor, we object. 18 Approach or state my objection? 19 THE COURT: You can state in code or 20 approach. 21 MR. PRYOR: Limine. 22 THE COURT: I will sustain that. If you 23 want to approach, you can. 24 MR. GREENFIELD: That is all right. I 25 would rather keep moving.</p>	<p style="text-align: right;">Page 735</p> <p>1 THE COURT: Thank you. 2 BY MR. GREENFIELD: 3 Q. Ms. Stone, thank you for the thorough 4 explanation of the process. I think everyone is 5 still awake during our lesson on union -- the finer 6 points of it. 7 I'm going to try to boil it down and be a bit 8 more concise. Please tell me if I'm wrong. 9 If a complaint is filed, a fact-finding meeting 10 occurs, is that correct? 11 A. If -- if Southwest Airlines, either through a 12 complaint or something that a member of Southwest 13 leadership witnessed, Southwest can, yes, initiate a 14 fact-finding meeting. 15 Q. Okay. And the union provides representation at 16 that fact-finding meeting? 17 A. Yes. If the flight attendant requests us. 18 Q. Okay. 19 A. We do sometimes have flight attendants that 20 don't call. We don't know -- there could be 21 meetings that we are not aware of. 22 Q. And the flight attendant has the ability to 23 select their own representation? 24 A. Not to select. They can make a request. 25 Q. Okay.</p>

<p style="text-align: right;">Page 736</p> <p>1 A. If there is somebody in particular -- and I 2 can't speak to how it is done now. During my 3 administration, we tried to accommodate those 4 requests as best we could. 5 But a lot of times, they required getting an 6 extension from Southwest based on schedules. So, 7 again, as best we could, but we could never 8 guarantee that someone would have a -- it was in our 9 policy. It was out of our control, because it had 10 to be an agreement by Southwest, too, if there was 11 an extension. 12 Q. And based on your personal knowledge, do you 13 know if Charlene Carter was afforded union 14 representation at her fact-finding meeting? 15 A. It is my understanding that she did have 16 representation at her meeting, yes. 17 Q. And if an individual is not happy with the -- 18 okay. Let me take that back. 19 Does Southwest ever exert a punishment on a 20 flight attendant after a fact-finding meeting? 21 A. Yes. They can issue discipline following the 22 results of the fact-finding. 23 Q. And if, it is my understanding, that if the 24 flight attendant disagrees with that punishment, 25 they can then take it to the Step 2 hearing you were</p>	<p style="text-align: right;">Page 737</p> <p>1 discussing? 2 MR. PRYOR: Object, leading. 3 THE COURT: Sustained. 4 BY MR. GREENFIELD: 5 Q. What would be the process if a flight attendant 6 disagreed with the result of the fact-finding 7 meetings -- of the fact-finding meeting? 8 A. They would let the union office know that they 9 wanted to grieve it, that they wanted to file a 10 grievance. 11 And then the union office would formally file 12 that grievance on behalf of the flight attendant, 13 which requires a process of notifying Southwest 14 Airlines. 15 And then at that point, they would work to set 16 up and coordinate the second step in the grievance 17 process, which would be the Step 2 hearing with a 18 higher number of Southwest Airlines's management, 19 would have a chance to look at that case and could 20 choose to overturn the decision made at the base 21 level. 22 Q. Based on your personal knowledge, do you know 23 if Charlene Carter took place in a Step 2 on this 24 process? 25 A. Yes.</p>
<p style="text-align: right;">Page 738</p> <p>1 Q. And are you aware whether or not she was 2 provided union representation? 3 A. Yes. 4 Q. So even though you turned her in to the 5 company, the union still provided her representation 6 at the fact-finding meeting and the Step 2 process, 7 is that correct? 8 MR. PRYOR: Objection, asked and answered. 9 Object, leading. 10 THE COURT: Sustained. 11 BY MR. GREENFIELD: 12 Q. Are you aware if Ms. Carter received union 13 representation at the Step 2 meeting? 14 MR. PRYOR: Object, asked and answered. 15 THE COURT: I will allow that. 16 THE WITNESS: Yes, she did. 17 BY MR. GREENFIELD: 18 Q. I would like to turn our attention to union 19 communications. 20 Did you have a specific email address for 21 yourself as president of the union? 22 A. Yes. 23 Q. Okay. What was that? 24 A. You could utilize either president at 25 TWU556.org or astone@TWU556.org, which was the</p>	<p style="text-align: right;">Page 739</p> <p>1 standard for all of our board members, either the 2 title or their first initial and last name. 3 Q. And did you receive messages from membership, 4 email messages, on those two accounts. 5 A. Yes. Regularly. 6 Q. Was there a platform that membership was given 7 to know that those two accounts existed. 8 A. Just to clarify, it was the same account. You 9 could just utilize either email address. It all 10 went to the same place. 11 And, yes, that email address, I think, was -- 12 is at the bottom -- my contact information in my 13 auto reply, it contained my email address, as well 14 as my union phone number. 15 And I think any publication or communication, 16 like a president's message that went out, also had 17 contact information in it as well. 18 Q. Did you ever receive emails from your 19 membership on your president's email accounts? 20 A. Yes. 21 Q. How frequently? 22 A. Daily. And that doesn't even really describe 23 sometimes the volume of email that I received on a 24 daily basis just to that account. 25 And I was also on numerous other distribution</p>

<p style="text-align: right;">Page 740</p> <p>1 groups, within our union, that were funneling to the</p> <p>2 same inbox as well.</p> <p>3 Q. Let's discuss that volume.</p> <p>4 How many emails are we talking about per day</p> <p>5 that you were receiving to those email addresses?</p> <p>6 A. Sometimes over 100.</p> <p>7 Q. Can you please describe your -- if -- if you</p> <p>8 had any emotions tied to trying to respond to all of</p> <p>9 those emails in any given day.</p> <p>10 A. It was overwhelming. I did not have -- I did</p> <p>11 not have an assistant-type role, who vetted,</p> <p>12 fielded, or even organized my inbox. The only</p> <p>13 person that did that was -- was me.</p> <p>14 And at numerous points during my presidency,</p> <p>15 particularly when we were in active contract</p> <p>16 negotiations with Southwest Airlines, the volume of</p> <p>17 emails that came in between me, being the president,</p> <p>18 me, being an executive board member, and me, being</p> <p>19 the lead negotiator, not even touching the grievance</p> <p>20 staff that I was responsible for, and responsible</p> <p>21 for assisting in the day-to-day operations of our</p> <p>22 union.</p> <p>23 It was overwhelming isn't even accurate for how</p> <p>24 impossible some days it felt, to not let things fall</p> <p>25 through the cracks, something that needed to be</p>	<p style="text-align: right;">Page 741</p> <p>1 responded to responding because it was just -- it</p> <p>2 was too much.</p> <p>3 Q. Outside of issues brought to you by membership,</p> <p>4 what sort of issues were you dealing with as the</p> <p>5 president of the union that would come to that sort</p> <p>6 of email?</p> <p>7 A. As my job as the president?</p> <p>8 Q. Yeah. Let's kind of talk about it from a</p> <p>9 priority sense.</p> <p>10 Were there things that came across that you had</p> <p>11 to prioritize during review of your emails in any</p> <p>12 given day?</p> <p>13 A. Yes. Particularly, I would say, anything that</p> <p>14 was time sensitive, which could frequently be</p> <p>15 communications from anyone in Southwest Airlines</p> <p>16 leadership. Again, especially when we were in</p> <p>17 contract negotiations.</p> <p>18 There were times that, as the chair of the</p> <p>19 executive board, there were times where the</p> <p>20 executive board would be conducting a vote on a</p> <p>21 matter via email, and I was responsible for keeping</p> <p>22 up with the time frames, the vote counts,</p> <p>23 participation.</p> <p>24 So there was always -- I always had to</p> <p>25 prioritize because there were things that were very</p>
<p style="text-align: right;">Page 742</p> <p>1 time sensitive, either through -- through our</p> <p>2 policies and procedures, or through responding to</p> <p>3 something that was currently going on.</p> <p>4 And it is also the airline industry, and it is</p> <p>5 a 365-day-a-year operation. Our members are out</p> <p>6 working 365 days of the year. So it doesn't -- it</p> <p>7 is not a job where it ends at 5.</p> <p>8 And if there is an emergency that happens, that</p> <p>9 is obviously going to take priority over anything</p> <p>10 else going on.</p> <p>11 Q. Now, when you are talking about emergencies, in</p> <p>12 the airline industry, what sort of emergencies are</p> <p>13 you talking about?</p> <p>14 A. Aircraft incident.</p> <p>15 Q. Okay.</p> <p>16 A. And that could be a number of things.</p> <p>17 It could be -- it could be an inadvertent --</p> <p>18 anything from an inadvertent mass deployment to what</p> <p>19 happened with Flight 1380 in April of 2018.</p> <p>20 Q. I don't want to get too far into that, but can</p> <p>21 you please tell the jury what you are referring to</p> <p>22 with Flight 1380, because I myself am not precisely</p> <p>23 sure.</p> <p>24 A. As simple as possible, during flight at</p> <p>25 altitude, there was a -- I don't know if I'm</p>	<p style="text-align: right;">Page 743</p> <p>1 using -- almost a rupture in the aircraft, caused a</p> <p>2 rapid decompression, and a passenger sitting where</p> <p>3 that hole occurred was sucked out of the aircraft.</p> <p>4 The plane made an emergency landing and that</p> <p>5 passenger ended up passing away.</p> <p>6 Q. While we were on those email communications,</p> <p>7 the complaint you filed with Southwest Airlines</p> <p>8 against Charlene Carter, did you turn her in for</p> <p>9 anything that she sent to your union president's</p> <p>10 email?</p> <p>11 MR. PRYOR: Object, leading.</p> <p>12 MR. GREENFIELD: I asked if she did or</p> <p>13 not.</p> <p>14 THE COURT: I will allow this one.</p> <p>15 THE WITNESS: No.</p> <p>16 BY MR. GREENFIELD:</p> <p>17 Q. All right. I would like to talk to you about</p> <p>18 complaints in general now.</p> <p>19 If a union member want to lodge a complaint</p> <p>20 against a fellow union member, is there a way to do</p> <p>21 that internally within the union?</p> <p>22 A. Yes.</p> <p>23 Q. Can you explain how that -- how that authority</p> <p>24 exists?</p> <p>25 A. Under our TWU international constitution, which</p>

<p style="text-align: right;">Page 744</p> <p>1 I have mentioned, international is the -- lack of a 2 better word, supreme authority of the union, and 3 then there is the local that has to operate 4 underneath the constitution and within that 5 framework. 6 The constitution outlines the internal 7 procedure, which is essentially, it is called filing 8 charges against a member. 9 It -- keeping it short, it outlines the 10 procedures that would take place for those to be 11 vetted to see if it warrants further action, which 12 could take place either via a trial, a union trial, 13 or by the vote of a -- or be dealt with through the 14 membership body at a membership meeting. 15 Q. Does that apply to board members as well, 16 executive board members? 17 A. Yes. There are procedures outlined in there 18 that refers specifically to charges being filed 19 against an executive board member. Either from a 20 member or from a member of the executive board. 21 Q. Okay. 22 A. It is similar, just a little bit different, if 23 they are a board member. 24 Q. And if a union member wanted to lodge a 25 complaint against a non-union member or an objector,</p>	<p style="text-align: right;">Page 745</p> <p>1 can they use that same process, that internal 2 process? 3 A. No. 4 Q. Why not? 5 A. Because it is member to member. If -- if -- if 6 that process occurs, and the flight attendant is 7 found guilty of violating whatever the alleged -- 8 whatever they were accused of, then the constitution 9 outlines what could happen to that person, including 10 making them a member in bad standing. 11 And if you have already opted out of the union, 12 you are not a member anyway. So you can't have -- 13 you can't have anything levied against you. A 14 member in bad standing, for instance, can't come to 15 a union meeting or can't vote. 16 But if you have opted out of the union, you 17 have already lost that right anyway. So there isn't 18 an additional punishment that could be handed out. 19 Q. As a non-union member, an objector, was there 20 any mechanism for you to bring any sort of internal 21 charges against Charlene Carter? 22 A. No. 23 Q. I would like to talk about your specific 24 complaint that you filed against Charlene Carter, 25 okay?</p>
<p style="text-align: right;">Page 746</p> <p>1 But before we talk about that, during opening 2 statements, which you were not here, we heard about 3 Ms. Carter's experience about some of the posts she 4 sent you. 5 And I'm sorry to ask you this, but do you 6 yourself have any life experiences tied to abortion? 7 A. No. 8 Q. You mentioned earlier today that you did work 9 representing at-risk youth or -- I don't want to put 10 words in your mouth. Can you remind the jury what 11 I'm referring to? 12 A. I worked at an outpatient child and adolescent 13 mental health clinic in east Texas. I held various 14 roles in that. But I provided skills training to 15 children and teenagers, and I taught parenting 16 skills in the home, to a variety of different -- 17 different -- children that were experiencing a 18 variety of mental health reasons and diagnoses. 19 Q. Did any part of your work there or experience 20 there shape your views and experiences on the issue 21 of abortion? 22 A. Yes. 23 Q. Can you please explain that to the jury? 24 MR. PRYOR: Your Honor, we object. 25 THE COURT: I will allow it.</p>	<p style="text-align: right;">Page 747</p> <p>1 MR. PRYOR: Can I state the objection or 2 do you want me to do it later? 3 THE COURT: You can state your basis in 4 code or go for it at a sidebar. 5 MR. PRYOR: I just need it on the record. 6 THE COURT: Well, you need to state your 7 basis in code or do it at a sidebar. 8 MR. PRYOR: The relevance of Rule 404. 9 THE COURT: Understood. I will allow it. 10 You can answer the question. 11 THE WITNESS: Part of that job, I -- I had 12 always believed that the general idea of abortion 13 was wrong. That even in the case of an unwanted 14 pregnancy, a woman should look at all other options, 15 choose another option, like adoption if they weren't 16 in a position to keep that child. 17 And in the course of my almost five years 18 in that role, I worked with two different kiddos who 19 were the product of an incestuous rape. 20 One, it was -- 21 MR. PRYOR: Your Honor, now I object to 22 narrative. 23 THE COURT: I will let you finish the 24 answer, but it can't be too long of an answer. 25 THE WITNESS: After working with both of</p>

<p style="text-align: right;">Page 748</p> <p>1 those children and their mothers, my views shifted. 2 Because while I -- I had never been in the 3 situation they were in, and it opened my eyes to 4 situations women could find themselves in. 5 And both of these women didn't have access 6 to resources and it was a family member in their 7 home, a relative that was raping them repeatedly 8 from a very young age. 9 And I did not believe that I or anyone 10 else have the right to tell those women or any other 11 woman in that situation that they had to carry that 12 baby. 13 BY MR. GREENFIELD: 14 Q. Thank you, Ms. Stone. 15 And I'm going to get off this topic as quickly 16 as I can. 17 There was discussions yesterday about your 18 personal beliefs, and I just want to make them 19 clear. 20 MR. GREENFIELD: Can you please pull up 21 Exhibit 66? 22 BY MR. GREENFIELD: 23 Q. I'm looking at the middle of the page. 24 MR. GREENFIELD: I would like to offer 25 this exhibit into evidence.</p>	<p style="text-align: right;">Page 749</p> <p>1 It's 67. 2 THE COURT: So I will ask if there is any 3 objection from Southwest or Carter to 67? 4 MR. McKEEBY: No objection. 5 MR. HILL: No. 6 BY MR. GREENFIELD 7 Q. I would like you to look at the middle of the 8 page. There's an email -- 9 THE COURT: Hold on. 10 -- from Carter on 67. 11 MR. PRYOR: I'm sorry? 12 MR. HILL: No objection. 13 MR. PRYOR: No objection. 14 THE COURT: Okay. Sixty-seven is in. We 15 will publish. 16 (The referred-to document was admitted in 17 Evidence as Trial Exhibit 67.) 18 BY MR. GREENFIELD: 19 Q. I would like to direct you to the middle of the 20 page. There is an email from you to Suzanne 21 Stevenson. If you could please read quietly while I 22 read aloud. 23 Suzanne, part of my message was cut -- 24 THE COURT: Can we have the witness -- 25 MR. GREENFIELD: Oh, I apologize.</p>
<p style="text-align: right;">Page 750</p> <p>1 THE COURT: -- just -- since it is not a 2 hostile witness? 3 MR. GREENFIELD: Yes. 4 BY MR. GREENFIELD: 5 Q. Please, Ms. Stone? 6 THE COURT: And she could read aloud into 7 the record if you want. I prefer it to come from 8 you instead of you since it is not a hostile 9 witness. 10 MR. GREENFIELD: Yes, Your Honor. 11 THE WITNESS: Suzanne, part of my message 12 was cut. It should have said, quote, "I am 13 personally pro life, but I support others right to 14 pro choice and don't believe I have the right to 15 tell them what to do with their body. And to be 16 sent messages that reference me as a murderer 17 couldn't be further from the truth. My apologies as 18 I have edited and cut and pasted and agonized for 19 days. Again, thank you for your attention, Audrey." 20 Q. The messages -- and I'm talking about the first 21 three that you turned in to Ms. Carter to for 22 Southwest Airlines -- do you know what I'm referring 23 to? 24 A. Yes. 25 Q. Did you feel physically threatened by those --</p>	<p style="text-align: right;">Page 751</p> <p>1 any of those posts? 2 MR. PRYOR: Object, leading. 3 MR. GREENFIELD: I just asked -- 4 THE COURT: I will allow it. 5 THE WITNESS: Yes. 6 BY MR. GREENFIELD: 7 Q. And I believe the line that we have seen 8 repeatedly is that "I can't wait until you go back 9 on line." Was there -- 10 MR. GREENFIELD: I apologize, your Honor. 11 I apologize, counsel. 12 BY MR. GREENFIELD: 13 Q. What part of those messages, if any, made you 14 feel physically threatened? 15 MR. PRYOR: Object, leading. 16 THE COURT: I will allow that. 17 THE WITNESS: I took her comment that she 18 couldn't wait to see me back on line as a threat 19 because of other conversations that had just 20 recently been going on about what the flight 21 attendants -- specifically, the flight attendants 22 that had voted against the tentative agreement -- 23 what they were going to do to me when I came back on 24 line. Comments that I would need to travel with 25 body guards. And comments about them fighting over</p>

<p style="text-align: right;">Page 752</p> <p>1 who was going to get to me first. Including with 2 depictions of weapons. 3 So at that point in my presidency, I was 4 terrified. I had people working in the grievance 5 team who were afraid to come to work. Because some 6 of the social media posts had been specific about me 7 and some were general to the union and contained 8 weapons. 9 Just prior to that, I had had a 10 negotiating team member, as we were preparing to go 11 on the road to roll out the second negotiated 12 tentative agreement, to roll it out for ratification 13 vote, typically members of the negotiating team 14 travel to all of the domiciles to have an 15 opportunity for the members to come in and sit 16 face-to-face and answer -- have a negotiating team 17 go over changes in the contract. I had a 18 negotiating team member tell me that he didn't want 19 to go to the ratification meetings because he was 20 afraid of being hit by -- 21 MR. PRYOR: Object to hearsay and 22 narrative. 23 THE COURT: Yeah, pretense, I will allow 24 it. 25 THE WITNESS: Because he was afraid of</p>	<p style="text-align: right;">Page 753</p> <p>1 being hit by a stray bullet meant for me. 2 We had also already arranged to have 3 police and/or security guards present at all of 4 those ratification meetings. 5 And we had already instituted a policy to 6 have signs placed at all of the places that those 7 were held that you could not bring weapons in. 8 Because we had had flight attendants reach out and 9 express concern about attending a membership 10 meeting, as a union member, because of the violent 11 posts and comments that were circulating. 12 So yes, I took that as a threat. 13 BY MR. GREENFIELD: 14 Q. Did you ever, was there ever an instance -- let 15 me walk that back a little bit. 16 You mentioned an issue with targeting and, 17 bullets, et cetera. 18 A. I'm sorry, can you repeat that? 19 Q. Yes, ma'am. 20 You mentioned an instance with bullets, 21 targeting, et cetera. 22 Were there any instances where firearms were 23 brought to union member meetings? 24 A. Yes. 25 Q. Can you please talk about that?</p>
<p style="text-align: right;">Page 754</p> <p>1 MR. PRYOR: Your Honor, relevance. 2 THE COURT: I will allow it. 3 THE WITNESS: We, at times, did 4 simultaneous meetings. Because ten days of meetings 5 was two full business weeks. So calendar reasons, 6 we sometimes split up. I had two vice presidents, 7 recording secretary, other officers and board 8 members that would fill in as recording secretary. 9 So during one of the time periods that we 10 were running membership meetings in two different 11 bases at the same time -- so I'm chairing a 12 membership meeting on the East Coast, one of my vice 13 presidents is chairing a membership meeting on the 14 West Coast -- there was a meeting that I was not 15 chairing, where a member came. 16 And it was discovered at some point during 17 the meeting that he had a gun, a gun tucked in his 18 pants. 19 It was after that, that we started posting 20 signs on the doors that, regardless of any state 21 laws, weapons were not allowed at a membership 22 meeting. 23 We had also had -- where we had to seek 24 assistance from Southwest Airlines to take 25 precaution for a membership meeting that was being</p>	<p style="text-align: right;">Page 755</p> <p>1 held in Houston on an airport property because of a 2 flight attendant that was in the grievance process, 3 a threatening voicemail she had left on one of the 4 staff members -- on what she -- she was going to 5 show up to the meeting and -- 6 MR. PRYOR: Okay. Once again, your Honor, 7 narrative and relevance. 8 THE COURT: I will allow a narrative in 9 this format. 10 You can answer. 11 THE WITNESS: Her intent to physically 12 cause me harm at the union meeting because of the 13 way the executive board had voted on her grievance, 14 my recording secretary, who was going to be 15 traveling with me to that meeting, said -- 16 especially given the climate we were in -- we needed 17 to take this seriously -- 18 MR. PRYOR: Objection, hearsay. 19 THE COURT: You have got to wait to let 20 her finish. You can move to strike if I grant your 21 objection, but you have to let her finish her 22 answer. 23 THE WITNESS: And because the meeting was 24 being held on airport property right down the hall 25 from the Southwest Airlines flight attendant lounge,</p>

<p style="text-align: right;">Page 756</p> <p>1 I reached out to Southwest Airlines to let them know 2 about the threat, and worked with the Houston 3 Southwest Airlines base manager at the time, and he 4 worked with the local airport authorities to ensure 5 that that individual did not even gain access to the 6 restricted area. 7 BY MR. GREENFIELD: 8 Q. Do you recall any of the -- what you describe 9 as threats to you personally, do you recall any of 10 the flight attendants who you believe threatened you 11 personally? 12 MR. PRYOR: Object, relevance. Object 13 prejudice. Doesn't relate to anything Ms. Carter 14 did. 15 THE COURT: I will allow it. You can 16 answer. 17 THE WITNESS: Yes. 18 BY MR. GREENFIELD: 19 Q. Can you please provide those names? 20 A. Robert Picket was one of them. Jeanna Jackson 21 was one of them. Polly Momovich (sp). And the one 22 I was just speaking of in Houston, I believe her 23 name was Rebecca, but I don't recall the last name. 24 I'm sorry. 25 But that is what I can recall right now.</p>	<p style="text-align: right;">Page 757</p> <p>1 Q. Thank you. 2 Ms. Carter's counsel talked to you about "an 3 exhibit where you used the term see you back on 4 line." Do you see a difference in the way that you 5 used it and the way that Ms. Carter used it? 6 MR. PRYOR: Object, leading. 7 THE COURT: I will allow this. 8 THE WITNESS: Yes. There -- at least the 9 full last year of -- or probably sometime during the 10 last year of my presidency, I made it very clear to 11 my team members and to anyone in the membership who 12 asked me, that I would not be seeking reelection 13 because of everything I had been through. No job 14 was worth it. 15 And so then the narrative amongst a number 16 of flight attendants who had been very open in not 17 supporting me, saying that I was never going to go 18 back to being a flight attendant, that I didn't care 19 about them, because I was never going to go back to 20 do the job, because I had a job waiting for me 21 either at TW International or at Southwest 22 management. 23 So there had been a lot of comments about 24 me not going back on line. So I ended my last 25 presidency message with what I had said all along, I</p>
<p style="text-align: right;">Page 758</p> <p>1 am a flight attendant and the only job I have lined 2 up to go back to after I complete this term is my 3 flight attendant job. 4 BY MR. GREENFIELD: 5 Q. And I would like to talk about a little bit 6 about that timing. 7 What was the separation in time of when you 8 made your complaint about Ms. Carter and when you 9 would be going back on line as just a rank and file 10 flight attendant? 11 A. I had, I believe, around 14 months left on my 12 term. The complaint was made early in 2017 and my 13 term ran through April 30th of 2018. 14 Q. Thank you. 15 Do you have any relationship with Charlene 16 Carter? 17 A. No. 18 Q. Had you ever spoken with Charlene Carter? 19 A. Not directly. She attended one membership 20 meeting, to my recollection, a couple of weeks after 21 I became president. She was one of the members in 22 attendance. 23 To my knowledge, that was the first time I had 24 ever even been -- that I was aware that I have been 25 in a room with her.</p>	<p style="text-align: right;">Page 759</p> <p>1 Q. Do you have any recollection of any of the 2 messages you received from Ms. Carter asking you 3 about your views about abortion? 4 A. No. 5 Q. And the three posts that led to the complaint 6 you filed against Ms. Carter, do any of those posts 7 have any requests about Ms. Carter wanting to have a 8 conversation about your views on abortion? 9 MR. PRYOR: Object, leading. 10 THE COURT: I will allow it. 11 THE WITNESS: No. 12 BY MR. GREENFIELD: 13 Q. Did you interpret anything within those posts 14 as Ms. Carter wanting to have a conversation with 15 you about abortion? 16 A. No. Nothing that she had sent me had ever 17 appeared to be encouraging to have a conversation or 18 a dialogue. 19 Q. Ms. Stone, did the local union ever donate to 20 Planned Parenthood? 21 A. No. 22 MR. PRYOR: I'm sorry, I didn't hear the 23 question. 24 MR. GREENFIELD: I asked if the local 25 union ever donated to Planned Parenthood.</p>

<p style="text-align: right;">Page 760</p> <p>1 MR. PRYOR: Has the local union?</p> <p>2 MR. GREENFIELD: Ever donated to Planned</p> <p>3 Parenthood.</p> <p>4 MR. PRYOR: Okay.</p> <p>5 BY MR. GREENFIELD:</p> <p>6 Q. The answer to that was no?</p> <p>7 A. Correct. No.</p> <p>8 MR. GREENFIELD: If I may have a moment to</p> <p>9 just discuss with my co-counsel. I will be right</p> <p>10 back.</p> <p>11 THE COURT: You may.</p> <p>12 BY MR. GREENFIELD:</p> <p>13 Q. Ms. Stone, there has been lots of discussions</p> <p>14 about communications you received from Brian</p> <p>15 Talburt.</p> <p>16 Do you remember those?</p> <p>17 A. Yes.</p> <p>18 Q. Was Mr. Talburt ever an executive board member?</p> <p>19 A. No.</p> <p>20 Q. Was Mr. Talburt ever an agent of the union?</p> <p>21 MR. PRYOR: Object, calls for a legal</p> <p>22 conclusion.</p> <p>23 THE COURT: I will allow her to answer if</p> <p>24 she has personal knowledge.</p> <p>25</p>	<p style="text-align: right;">Page 761</p> <p>1 BY MR. GREENFIELD:</p> <p>2 Q. Did you believe Mr. Talburt to ever be an agent</p> <p>3 of the union?</p> <p>4 A. No.</p> <p>5 Q. There was discussions about Mr. Talburt on a</p> <p>6 CAN team, I believe.</p> <p>7 A. Yes.</p> <p>8 Q. Can you please remind the jury what the CAN</p> <p>9 was?</p> <p>10 A. Usually during any rollout of a tentative</p> <p>11 agreement on the contract, after the negotiations,</p> <p>12 there is more people needed than just the</p> <p>13 negotiating team and the executive board to make</p> <p>14 sure we are there and available to answer any</p> <p>15 questions our members have about such an important</p> <p>16 vote.</p> <p>17 Through, I think, at least all of the contract</p> <p>18 rollouts in my time at Southwest Airlines, the union</p> <p>19 will ask for either, like, people that have shown</p> <p>20 interest, people that have emailed the negotiating</p> <p>21 team and say, Hey, what can I do to help?</p> <p>22 And bring them in to help them help us make</p> <p>23 sure that flight attendants understand what they are</p> <p>24 voting on, understand what is going on in</p> <p>25 negotiations.</p>
<p style="text-align: right;">Page 762</p> <p>1 Sometimes it is put in place before you even</p> <p>2 reach the agreement, because there is lot of</p> <p>3 activity with the negotiations of the contract</p> <p>4 actions at work. That was one of those type of</p> <p>5 committees.</p> <p>6 Flight attendants that had expressed interest</p> <p>7 or volunteered to assist the negotiating team.</p> <p>8 We -- one -- one of their duties sometimes was</p> <p>9 following a negotiating session with Southwest</p> <p>10 Airlines. The day following, all the domiciles</p> <p>11 would have someone from the contract action network</p> <p>12 there.</p> <p>13 A lot of times, the negotiating team would</p> <p>14 split up to go with them, it would be something we</p> <p>15 would publicize in advance, that they would be in</p> <p>16 the lounge to help answer any questions that you may</p> <p>17 have.</p> <p>18 Sometimes it was simply making people aware</p> <p>19 where to find updates on our website of the chart of</p> <p>20 where we were in the negotiating process.</p> <p>21 So he was a -- he was a member that assisted</p> <p>22 with that project.</p> <p>23 Q. And did any actions Mr. Talburt took have the</p> <p>24 ability to bind the union in any sort of</p> <p>25 negotiation?</p>	<p style="text-align: right;">Page 763</p> <p>1 A. No.</p> <p>2 MR. PRYOR: Object, leading. Object,</p> <p>3 calls for a legal conclusion.</p> <p>4 THE COURT: I will allow her to answer if</p> <p>5 she has personal knowledge.</p> <p>6 BY MR. GREENFIELD:</p> <p>7 Q. Do you have personal knowledge of that,</p> <p>8 Ms. Stone?</p> <p>9 A. Yes. And the answer is no.</p> <p>10 Q. It was discussed earlier that, at some point,</p> <p>11 you represented Mr. Talburt or played a role in a</p> <p>12 fact-finding or Step 2 -- regarding Mr. Talburt.</p> <p>13 And I don't want to go further because I would just</p> <p>14 like to you clarify, because I don't remember myself</p> <p>15 exactly your role in that?</p> <p>16 A. As I mentioned earlier, sometimes flight</p> <p>17 attendants would make special requests of who they</p> <p>18 wanted involved in their representation.</p> <p>19 Mr. Talburt asked, I think his grievance specialist,</p> <p>20 if I could assist for his Step 2 hearing, the second</p> <p>21 step in this appeal process.</p> <p>22 And as I mentioned, normally the grievance</p> <p>23 specialist, and then our grievance chairperson,</p> <p>24 would normally attend the meeting. It was never</p> <p>25 just the grievance specialist.</p>

<p style="text-align: right;">Page 764</p> <p>1 And so there were times, including</p> <p>2 Mr. Talburt's, where, upon a flight attendant's</p> <p>3 request, I attended in lieu of the grievance</p> <p>4 chairperson. I accompanied the specialist.</p> <p>5 Q. Were there any other instances where you were</p> <p>6 requested by flight attendants to engage in that</p> <p>7 process? If so, tell us if you remember any</p> <p>8 specifics.</p> <p>9 A. Yes. Towards the very end of my term, a</p> <p>10 Dallas-based flight attendant, who had been in</p> <p>11 initial training with me in 2004 -- so 14 years</p> <p>12 later -- we had not seen each other, we hadn't</p> <p>13 actually spoken -- but he was called in for a</p> <p>14 fact-finding meeting in the Dallas base.</p> <p>15 And when he reached out to the union, he asked</p> <p>16 them if he could speak to me, because he wanted me</p> <p>17 to be involved in his -- in his process.</p> <p>18 I did not attend his fact-finding meeting. He</p> <p>19 had representation for that. But when Southwest</p> <p>20 Airlines issued discipline, I attended his Step 2</p> <p>21 hearing.</p> <p>22 Q. Do you remember any specific time frame around</p> <p>23 when you had been asked to represent Mr. Talburt in</p> <p>24 that process?</p> <p>25 A. I think it was -- I think it was early 2015.</p>	<p style="text-align: right;">Page 765</p> <p>1 Q. Okay.</p> <p>2 A. I'm not 100 percent certain.</p> <p>3 Q. I understand.</p> <p>4 A. I'm sorry, it is just a lot of history that</p> <p>5 I --</p> <p>6 Q. Certainly, Ms. Stone.</p> <p>7 MR. GREENFIELD: Please pull up</p> <p>8 Exhibit 26.</p> <p>9 BY MR. GREENFIELD:</p> <p>10 Q. Ms. Stone, this is Exhibit 26. It is one of</p> <p>11 the emails that had been discussed from Brian</p> <p>12 Talburt to you.</p> <p>13 Is that -- do you recognize this document?</p> <p>14 A. Yes.</p> <p>15 Q. All right.</p> <p>16 What date was this sent to you?</p> <p>17 A. October 13th, 2014.</p> <p>18 Q. Okay. This is Exhibit 27. Another email.</p> <p>19 Can you please tell us the date on that?</p> <p>20 A. October 13, 2014.</p> <p>21 Q. This is another email from Brian Talburt. Can</p> <p>22 you tell us the email date on that?</p> <p>23 A. October 13th, 2014.</p> <p>24 Q. The same question, Ms. Stone.</p> <p>25 A. October 13th, 2014.</p>
<p style="text-align: right;">Page 766</p> <p>1 Q. Do you have any recollection if Mr. Talburt was</p> <p>2 sending you these emails in relationship to his Step</p> <p>3 2 or his grievance process?</p> <p>4 MR. PRYOR: Objection, leading.</p> <p>5 THE COURT: I will allow it.</p> <p>6 THE WITNESS: Yes, and -- yes. Because he</p> <p>7 had received discipline for using a phrase that</p> <p>8 was -- I believe it was the public -- it had</p> <p>9 something to do with the public execution phrase</p> <p>10 that was referenced in one of those emails.</p> <p>11 BY MR. GREENFIELD:</p> <p>12 Q. Okay. And at this point, you were -- you were</p> <p>13 part of the representation team in the grievance</p> <p>14 process?</p> <p>15 A. Yes.</p> <p>16 Q. Would it be appropriate for a member of the</p> <p>17 grievance team to take information provided to them</p> <p>18 as part of the grievance and turn that information</p> <p>19 over to Southwest Airlines?</p> <p>20 A. Would you repeat the question? I just want to</p> <p>21 make sure I'm understanding.</p> <p>22 Q. Yes. If information was given to you as part</p> <p>23 of a defense on the grievance team, would that be</p> <p>24 appropriate basis for you to turn that employee in</p> <p>25 for any sort of violation of company policy?</p>	<p style="text-align: right;">Page 767</p> <p>1 MR. PRYOR: Object, leading.</p> <p>2 THE COURT: I will allow it.</p> <p>3 THE WITNESS: There were times, when in</p> <p>4 the defense of someone, in order to accurately</p> <p>5 represent that flight attendant, especially when it</p> <p>6 was a complaint or a situation that involved two</p> <p>7 different flight attendants fighting or differing</p> <p>8 opinions, there were numerous times where, in the</p> <p>9 grievance process, something would be brought</p> <p>10 forward that was needed in the defense of our</p> <p>11 current client, but could open the door for</p> <p>12 Southwest to then have new knowledge and information</p> <p>13 to investigate someone else.</p> <p>14 BY MR. GREENFIELD:</p> <p>15 Q. Do you have any understanding, based on this</p> <p>16 time frame that we are looking at, why Mr. Talburt</p> <p>17 would have sent you these emails?</p> <p>18 A. Because he was in the grievance process</p> <p>19 following discipline he received.</p> <p>20 Q. Okay.</p> <p>21 MR. GREENFIELD: One moment.</p> <p>22 Do we have Exhibit 15-A, the physical</p> <p>23 copy, available?</p> <p>24 I just wanted to make sure I had the right</p> <p>25 thing, your Honor.</p>

<p style="text-align: right;">Page 768</p> <p>1 BY MR. GREENFIELD:</p> <p>2 Q. Ms. Carter's counsel asked you several</p> <p>3 questions about that stack of documents right there.</p> <p>4 Do you remember those?</p> <p>5 A. Yes.</p> <p>6 Q. Is it fair to say, generally, you said that the</p> <p>7 contents of the writings in those posts, you believe</p> <p>8 them to be protected activity, correct?</p> <p>9 A. Yes. The ones that I could read.</p> <p>10 Q. Did you turn in Ms. Carter at any point after</p> <p>11 receiving any of those messages?</p> <p>12 A. Prior to February 2017, no.</p> <p>13 MR. GREENFIELD: Thank you.</p> <p>14 I pass the witness, your Honor.</p> <p>15 THE COURT: All right. Mr. McKeeby.</p> <p>16 CROSS-EXAMINATION</p> <p>17 BY MR. McKEEBY:</p> <p>18 Q. Hello, Ms. Stone.</p> <p>19 A. Hello.</p> <p>20 Q. Yesterday you indicated you were represented by</p> <p>21 counsel. Who did you mean?</p> <p>22 A. Mr. Joe Gillespi.</p> <p>23 Q. And is he here today in the courtroom?</p> <p>24 A. Yes, sir, he is.</p> <p>25 Q. You understand I represent Southwest Airlines,</p>	<p style="text-align: right;">Page 769</p> <p>1 correct?</p> <p>2 A. Yes, sir.</p> <p>3 MR. McKEEBY: Can we pull Exhibit 66?</p> <p>4 And this has been admitted.</p> <p>5 BY MR. McKEEBY:</p> <p>6 Q. This is your complaint?</p> <p>7 A. Yes -- not in its entirety. There is, I</p> <p>8 believe, a second page.</p> <p>9 Q. Okay. The page where you -- you mean the page</p> <p>10 where you clarify the -- your political views on</p> <p>11 abortion, is that what you are talking about?</p> <p>12 A. That one, but there is -- the document that I'm</p> <p>13 looking at doesn't finish the last sentence, so I</p> <p>14 still think there is a second page to this.</p> <p>15 Q. Okay. There -- you can go to the next page,</p> <p>16 662. Is that what you mean?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. So back to 661, please.</p> <p>19 Can you read for the jury the first sentence of</p> <p>20 the second paragraph that begins with "The</p> <p>21 messages."</p> <p>22 A. "The messages contain two graphic videos of an</p> <p>23 alleged aborted fetus and make references to murder</p> <p>24 as well as political and religious comments."</p> <p>25 The first two are the actual messages she sent</p>
<p style="text-align: right;">Page 770</p> <p>1 me and the bottom two are the links that they came</p> <p>2 from.</p> <p>3 MR. McKEEBY: Okay. If you could pull</p> <p>4 66.3.</p> <p>5 BY MR. McKEEBY:</p> <p>6 Q. That is one of the two messages you reference,</p> <p>7 correct?</p> <p>8 A. Yes.</p> <p>9 Q. And that is part -- or at least that is a still</p> <p>10 shot of the video that -- a snippet of which was</p> <p>11 shown to you yesterday, correct?</p> <p>12 A. Yes.</p> <p>13 Q. And -- by the way, who is this woman, a</p> <p>14 woman -- do you know who Samina Shah is?</p> <p>15 A. No, sir.</p> <p>16 Q. Can you read the text below her name?</p> <p>17 A. Aborted baby alive, even after the abortion.</p> <p>18 This is the reason abortion is murder and -- I don't</p> <p>19 know what that last word it.</p> <p>20 Q. It cuts off. Okay.</p> <p>21 Did you understand that Ms. Carter authored</p> <p>22 that or did you know one way or the other?</p> <p>23 A. I don't -- I don't know.</p> <p>24 Q. Okay. But that is part of what she sent you?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 771</p> <p>1 MR. McKEEBY: And if we can go to 66.5.</p> <p>2 BY MR. McKEEBY:</p> <p>3 Q. Is this a still shot of the second video?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And what is the reference below about</p> <p>6 Democrats? Can you read that?</p> <p>7 A. Hashtag Democrats, this is what you support,</p> <p>8 question mark, if it is dot, dot, dot.</p> <p>9 Q. Did --</p> <p>10 MR. McKEEBY: You can take it down.</p> <p>11 BY MR. McKEEBY:</p> <p>12 Q. Did you watch this video as well?</p> <p>13 A. I did eventually watch it, yes.</p> <p>14 Q. When did you watch it?</p> <p>15 A. I think it was a day or two after. I mean it</p> <p>16 was the next day after I had seen part of the first</p> <p>17 one.</p> <p>18 MR. McKEEBY: You can take it down.</p> <p>19 BY MR. McKEEBY:</p> <p>20 Q. So a day or two after you watched part of the</p> <p>21 first one. Where were you when you watched the</p> <p>22 second one?</p> <p>23 A. I was in -- I was in a hotel room, the room I</p> <p>24 was staying in at the conference center out of</p> <p>25 Baltimore-Washington International Airport.</p>

<p style="text-align: right;">Page 772</p> <p>1 Q. Okay. The first video you watched at the 2 airport, is that correct? 3 A. Part of it. 4 Q. Part of it. 5 Was the amount that you saw during the trial 6 yesterday, was that representative of the amount of 7 time that you viewed -- 8 A. Roughly. I know there was a lot of how many 9 seconds. I don't -- and I don't recall. And I -- 10 Q. You said that. 11 A. Yes. I --- 12 Q. Okay. 13 A. It was enough to see the images and understand 14 what they were, and to have to go pull myself 15 together. 16 Q. I will bet Mr. Pryor was going to ask you this 17 question, but I will ask you first: Why did you go 18 back and watch the second video? 19 A. Because I felt like I needed to see exactly 20 what she sent me. 21 Q. Okay. So you talked about -- 22 MR. PRYOR: I'm sorry. Was the witness 23 finished with her answer? 24 BY MR. McKEEBY: 25 Q. I understand the witness to be finished. Do</p>	<p style="text-align: right;">Page 773</p> <p>1 you have more to say? 2 A. No, sir. 3 Q. Thank you. 4 You talked about earlier today, I think, of a 5 telephone conversation with representatives of 6 Southwest Airlines after you made the complaint 7 about Ms. Carter, correct? 8 A. Yes. 9 Q. And who was on that call? 10 A. Ed Schneider, who was the Denver-based manager, 11 which is where Ms. Carter was based. I believe 12 Suzanne Stephenson, the Las Vegas-based manager. 13 Denise Gutierrez, from employee relations at 14 Southwest Airlines. And at some point, after they 15 notified me that I could have a union rep present, 16 and if I wanted one, I -- Brett Nevarez joined me on 17 the call. 18 Q. Okay. How long was the call? 19 A. It felt like forever. It was -- maybe 15ish 20 minutes; I don't, I don't --- 21 Q. Now, did you have an understanding that 22 Mr. Schneider was the base manager for Denver? 23 A. Yes. 24 Q. What was your understanding of why he was on 25 the call?</p>
<p style="text-align: right;">Page 774</p> <p>1 A. Because that is the base where Ms. Carter was 2 at the time. 3 Q. Okay. 4 A. So he was the highest leadership in the Denver 5 base, her base. 6 Q. And you reported it to Las Vegas? 7 A. Yes. I reported it to my base manager. 8 Q. That was Miss Stevenson? 9 A. Yes. 10 Q. Prior to that telephone call, had you had any 11 interactions with Mr. Schneider before? 12 A. I had met him. I had met, at points or 13 another, most of in-flight managers, a lot of 14 supervisors. I hadn't been based in Denver. I 15 never directly worked with -- I can't recall a 16 situation where I directly worked with him, but I 17 had met him through the nature of my position. 18 Q. What about Ms. Gutierrez, had you met her 19 before? 20 A. I had not -- no, I had never met her. I mean, 21 I think that may have been the first time I had ever 22 spoken to her on the phone. 23 Q. Who did most of the talking during that phone 24 call? 25 A. Most of it was Mrs. Gutierrez asking me</p>	<p style="text-align: right;">Page 775</p> <p>1 questions. 2 Q. Okay. Did she ask you if you had ever spoken 3 to Ms. Carter about abortion? 4 A. Yes. 5 Q. What did you say in response? 6 A. I told her I had not. 7 Q. Did Mr. Gutierrez ask you what you wanted 8 Southwest Airlines to do about it? 9 A. She asked something in that vein or what my 10 purpose of reporting this was. And I think I -- to 11 the best of my recollection, listed that I wanted it 12 to stop. That I -- I -- I didn't want this to 13 happen again. 14 Q. Were you concerned that -- I'm sorry. I didn't 15 mean to cut you off, if I did. 16 A. I don't remember if I said it at that point. 17 One of -- one of my biggest concerns was that those 18 messages were going to be sent to another flight 19 attendant that was at that Working Women's Committee 20 meeting, and also attended the march. 21 Q. Did you ask Ms. Gutierrez or tell Ms. Gutierrez 22 you thought Ms. Carter could be fired for what she 23 did? 24 MR. PRYOR: Object, leading. 25 THE COURT: I will allow it.</p>

<p style="text-align: right;">Page 776</p> <p>1 THE WITNESS: No. I did not.</p> <p>2 BY MR. McKEEBY:</p> <p>3 Q. Was that your desire?</p> <p>4 A. No. It was to make it stop and to not have her</p> <p>5 harass anybody else in the ugly way I had been</p> <p>6 harassed.</p> <p>7 Q. When you pulled up the video at the airport,</p> <p>8 was that -- what device were you using? Was that a</p> <p>9 laptop or something else?</p> <p>10 A. My personal -- it was my cell phone.</p> <p>11 Q. Your cell phone.</p> <p>12 And was there any audio associated with the</p> <p>13 video at the airport?</p> <p>14 A. To my recollection, yes.</p> <p>15 Q. What do you recall hearing?</p> <p>16 A. The comment that you had me read underneath one</p> <p>17 of them about -- that said something about the baby</p> <p>18 still being alive. There was -- my recollection,</p> <p>19 there was somebody in the background making comments</p> <p>20 along those lines, Look, it is still moving.</p> <p>21 Q. Thank you.</p> <p>22 You told Mr. Greenfield about your personal</p> <p>23 beliefs regarding abortion a few minutes ago,</p> <p>24 correct?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 777</p> <p>1 Q. Had you ever discussed those views with</p> <p>2 Ms. Carter?</p> <p>3 A. No.</p> <p>4 Q. Did she ever ask you what your views on</p> <p>5 abortion were prior to sending those videos?</p> <p>6 A. No.</p> <p>7 Q. Did she ever discuss Planned Parenthood with</p> <p>8 you?</p> <p>9 A. No.</p> <p>10 Q. Did she ever discuss the Women's March in</p> <p>11 Washington with you prior to sending those videos?</p> <p>12 A. No.</p> <p>13 Q. I will change the subject and we can talk about</p> <p>14 pink hats.</p> <p>15 MR. McKEEBY: Can you pull up Exhibit 47,</p> <p>16 please?</p> <p>17 MR. McKEEBY: Southwest would move to</p> <p>18 admit 47.</p> <p>19 THE COURT: Forty-seven. Any objection</p> <p>20 from union or Carter to 47?</p> <p>21 MR. PRYOR: Just one second.</p> <p>22 THE COURT: You bet.</p> <p>23 MR. PRYOR: No objection.</p> <p>24 THE COURT: Mr. Greenfield?</p> <p>25 MR. GREENFIELD: No, your Honor.</p>
<p style="text-align: right;">Page 778</p> <p>1 THE COURT: Okay. Forty-seven is in. We</p> <p>2 will publish.</p> <p>3 (The referred-to document was admitted in</p> <p>4 Evidence as Trial Exhibit 47.)</p> <p>5 BY MR. McKEEBY:</p> <p>6 Q. Can you describe to the jury what this is?</p> <p>7 A. It is one of the messages that were sent in the</p> <p>8 batch that Ms. Carter sent me along with the two</p> <p>9 videos that we discussed.</p> <p>10 Q. And did you send this at some point to</p> <p>11 Southwest as well?</p> <p>12 A. Yes.</p> <p>13 Q. And did you understand that these addresses are</p> <p>14 intended to depict female genitalia?</p> <p>15 A. Yes.</p> <p>16 Q. Did you wear a hat like that when you marched</p> <p>17 in Washington?</p> <p>18 A. No.</p> <p>19 Q. Do you know of any Southwest Airlines's</p> <p>20 employee/flight attendant who marched with you in</p> <p>21 Washington wore a hat like that or a headdress? I'm</p> <p>22 not sure what it is.</p> <p>23 A. No, not the ones -- not anyone I saw.</p> <p>24 Q. And let me clarify.</p> <p>25 How about anybody at all at the march, did you</p>	<p style="text-align: right;">Page 779</p> <p>1 see anyone wearing a hat like this?</p> <p>2 A. No.</p> <p>3 Q. Did you wear a hat at the march?</p> <p>4 A. Yes.</p> <p>5 Q. Did you -- where did you get that hat?</p> <p>6 A. Some of the ladies had knitted -- knitted hats.</p> <p>7 It was January in DC. It was cold. And they had</p> <p>8 knitted and distributed them to all of the ladies</p> <p>9 who volunteered to stay for the march.</p> <p>10 Q. Okay. Did you -- when you say "the ladies,"</p> <p>11 were those fellow flight attendants?</p> <p>12 A. Yes. People that attended the Working Women's</p> <p>13 Committee meeting earlier that week.</p> <p>14 MR. McKEEBY: Can we pull Exhibit 56,</p> <p>15 which I think is in evidence.</p> <p>16 THE COURT: Fifty-six is in. You can</p> <p>17 publish.</p> <p>18 MR. McKEEBY: Publish 56.</p> <p>19 And can we go to 56.8?</p> <p>20 BY MR. McKEEBY:</p> <p>21 Q. Do you recognize yourself in that picture?</p> <p>22 A. Yes.</p> <p>23 Q. Where are you?</p> <p>24 A. I'm on the far right.</p> <p>25 Q. And are those the hats that you were talking</p>

<p style="text-align: right;">Page 780</p> <p>1 about?</p> <p>2 A. Yes.</p> <p>3 Q. This is what you wore in Washington?</p> <p>4 A. Yes.</p> <p>5 Q. Are these all fellow flight attendants depicted</p> <p>6 here?</p> <p>7 A. Yes.</p> <p>8 MR. McKEEBY: Go to Exhibit 94. I will</p> <p>9 move to admit 94.</p> <p>10 THE COURT: Any objection to 94?</p> <p>11 MR. PRYOR: No objection.</p> <p>12 MR. GREENFIELD: If I can have one moment,</p> <p>13 your Honor.</p> <p>14 THE COURT: You may.</p> <p>15 MR. GREENFIELD: No objection from the</p> <p>16 Union.</p> <p>17 THE COURT: All right. Ninety-four is in.</p> <p>18 You can publish.</p> <p>19 (The referred-to document was admitted in</p> <p>20 Evidence as Trial Exhibit 94.)</p> <p>21 BY MR. McKEEBY:</p> <p>22 Q. Ms. Stone, what is this document?</p> <p>23 A. During the initial phone call with Southwest</p> <p>24 Airlines that we spoke about earlier, I was asked if</p> <p>25 Ms. Carter had ever sent me any other communications</p>	<p style="text-align: right;">Page 781</p> <p>1 via on Facebook and I answered yes. And I was asked</p> <p>2 to send -- send them all to Southwest Airlines.</p> <p>3 And I think this was one of them, to my</p> <p>4 recollection. There were so many, I think that I</p> <p>5 had to send them in batches.</p> <p>6 Q. So this is another batch of those historical</p> <p>7 emails that Southwest asked you to provide?</p> <p>8 A. Facebook messages.</p> <p>9 Q. I'm sorry. Facebook messages.</p> <p>10 A. Yes.</p> <p>11 Q. I don't think counsel went over these with you.</p> <p>12 And I'm not going to ask you if they are protected,</p> <p>13 or union activity. I just kind of want to know what</p> <p>14 they are.</p> <p>15 So, I mean, if you are okay with that, I'm</p> <p>16 going to go through a couple of these.</p> <p>17 94.2. The blue mark is by something</p> <p>18 referencing carpet bombing again.</p> <p>19 Can you describe to the jury what that is</p> <p>20 about? If you know.</p> <p>21 A. I'm not certain exactly what she meant by</p> <p>22 "carpet bombing."</p> <p>23 I know that the -- this thread was implying</p> <p>24 that if we didn't like how election results turned</p> <p>25 out, that we would just somehow get rid of that --</p>
<p style="text-align: right;">Page 782</p> <p>1 you know, get rid of that person, overturn the</p> <p>2 election.</p> <p>3 Q. But this is an email that Ms. Carter --</p> <p>4 sorry -- a Facebook message that Ms. Carter sent to</p> <p>5 you?</p> <p>6 A. Yes.</p> <p>7 Q. And so the next page, we have an appearance by</p> <p>8 Albert Einstein. Do you know what this post is</p> <p>9 about or message is about?</p> <p>10 A. She says that it is how she feels about me and</p> <p>11 the rest of the board, pure evil.</p> <p>12 Q. Did you understand at the time or do you</p> <p>13 understand now, the relevance to the, I guess, quote</p> <p>14 from Albert Einstein?</p> <p>15 A. I -- his quote references evil.</p> <p>16 Q. Okay.</p> <p>17 A. But outside of that, I don't.</p> <p>18 Q. The next page, 94.4. It looks like this</p> <p>19 involves something about the residence of the</p> <p>20 representative in Denver.</p> <p>21 Do you have a sense of what that was about?</p> <p>22 A. Yes. A discussion yesterday about the elected</p> <p>23 Dallas domicile executive board member. It was</p> <p>24 regarding the actual address of where domicile</p> <p>25 executive board members reside.</p>	<p style="text-align: right;">Page 783</p> <p>1 Q. Why was that significant?</p> <p>2 A. Because the Dallas domicile executive board</p> <p>3 member that was removed -- similar to the way the</p> <p>4 union had removed another domicile executive board</p> <p>5 member in the past, who did not actually live, not</p> <p>6 only in the town, but in the state, where they</p> <p>7 represented.</p> <p>8 She was trying -- I'm assuming to say that the</p> <p>9 Denver rep -- I don't -- I actually -- I don't</p> <p>10 understand because the Denver rep does not live in</p> <p>11 Dallas, that is true. The Denver rep lives in</p> <p>12 Denver.</p> <p>13 The -- one of the other former -- Andrea, I'm</p> <p>14 assuming she refers to the former Dallas domicile</p> <p>15 executive board member, Andrea Garnett, whose</p> <p>16 physical address isn't Dallas proper. It is west</p> <p>17 of -- of Dallas, as I'm sure many people's addresses</p> <p>18 in here are.</p> <p>19 It goes on to talk about me, and that is just</p> <p>20 false information. I lived in Baltimore when I was</p> <p>21 the Baltimore domicile executive board member.</p> <p>22 Q. If you go to 94.7. There is a reference in the</p> <p>23 second message about, Hoping that people file</p> <p>24 charges against you.</p> <p>25 Do you recall that message?</p>

<p style="text-align: right;">Page 784</p> <p>1 A. Yes.</p> <p>2 Q. What is it about?</p> <p>3 A. I believe filing charges against -- against the</p> <p>4 board in a similar way that Mr. Greenfield had me</p> <p>5 walk through if there is a process within the union</p> <p>6 that a member could file charges against another</p> <p>7 member.</p> <p>8 Q. Now, there is more in here, but I will let the</p> <p>9 jury decide if they want to wade through this.</p> <p>10 Did you report any of these communications from</p> <p>11 Ms. Carter to Southwest Airlines?</p> <p>12 A. Prior to them requesting them as --</p> <p>13 Q. Yes. At the time that they were sent, did you</p> <p>14 complain to Southwest Airlines about any of these</p> <p>15 messages?</p> <p>16 A. No. I did not.</p> <p>17 Q. Well, why not?</p> <p>18 A. There were a lot of people unhappy with things.</p> <p>19 And a lot of flight attendants that sent me, even</p> <p>20 through official union channels, angry, ugly</p> <p>21 comments.</p> <p>22 And I knew that part of my job in being in a</p> <p>23 leadership position, especially being the top leader</p> <p>24 in the hierarchy of our local union, that their --</p> <p>25 that was part of the job, was dealing with angry and</p>	<p style="text-align: right;">Page 785</p> <p>1 unhappy people. And that there were always going to</p> <p>2 be angry and unhappy people in the membership for a</p> <p>3 variety of reasons. And that I needed to work as</p> <p>4 best I could to just work it out as much as I could</p> <p>5 and focus on doing the business of the union and</p> <p>6 working.</p> <p>7 Q. I'm sorry. And working?</p> <p>8 A. Yes.</p> <p>9 Q. Can you tell the jury a bit about the Women's</p> <p>10 Committee, what is that?</p> <p>11 A. It was actually established by</p> <p>12 TW International, with the exception of -- at the</p> <p>13 time, our local -- most of the local unions within</p> <p>14 TW International -- TW stands for Transport Workers</p> <p>15 Union -- most of those unions are incredibly male</p> <p>16 dominated.</p> <p>17 Airline mechanics, train drivers, bus</p> <p>18 operators. We were the only one whose demographic</p> <p>19 was the opposite, primarily women.</p> <p>20 So TW International had formed a committee to</p> <p>21 try to help the members in the various TW locals</p> <p>22 focus on issues that were specifically affecting</p> <p>23 women because I think they felt like they didn't</p> <p>24 have a lot of that representation in their</p> <p>25 workplace.</p>
<p style="text-align: right;">Page 786</p> <p>1 So it started through -- through them. And</p> <p>2 then was formed as -- at some point along the way, a</p> <p>3 Local 556 committee.</p> <p>4 Q. Was that one of the joint committees that we</p> <p>5 heard some testimony about earlier?</p> <p>6 A. No. It was not a joint committee.</p> <p>7 Q. It was an exclusive Local 556 committee?</p> <p>8 A. Yes.</p> <p>9 Q. And was there a committee meeting, a Women's</p> <p>10 Committee meeting, in Washington in January of 2017?</p> <p>11 A. Yes, there was.</p> <p>12 Q. What was the purpose of that meeting?</p> <p>13 A. The meeting was held at TW International</p> <p>14 headquarters, in conjunction with the then</p> <p>15 TW International Working Women's Committee</p> <p>16 chairperson, who was also a TW 556 member and</p> <p>17 Southwest flight attendant.</p> <p>18 She was working full time for the international</p> <p>19 union. I'm sorry, she has since passed away.</p> <p>20 So we went and worked with our local</p> <p>21 chairperson to coordinate that meeting in DC to</p> <p>22 bring in a number of speakers to talk to our flight</p> <p>23 attendants who were in attendance.</p> <p>24 One of our speakers was Liz Shuler, who is now</p> <p>25 the president of AFL-CIO.</p>	<p style="text-align: right;">Page 787</p> <p>1 Working America was one of the groups that we</p> <p>2 spoke with.</p> <p>3 And it was also to try to build up our local</p> <p>4 committee. And prior to that, we had not had people</p> <p>5 show interest.</p> <p>6 Every three years, as part of the election</p> <p>7 cycle, we take letters of interest for the committee</p> <p>8 chairperson's position, and there was one year that</p> <p>9 nobody even submitted for the chairperson position</p> <p>10 of our local committee. So I ended up taking it on,</p> <p>11 amongst my other duties, because nobody was</p> <p>12 interested.</p> <p>13 And we had had -- the chairperson at that time</p> <p>14 had a number of flight attendants reach out asking</p> <p>15 about the committee. There seemed to be a general</p> <p>16 interest.</p> <p>17 So it was to kind of help really build that and</p> <p>18 see what the committee could be doing on behalf of</p> <p>19 our members.</p> <p>20 Q. Was there a particular day of the week that</p> <p>21 that committee meeting was held?</p> <p>22 A. I believe that committee meeting -- I'm not a</p> <p>23 hundred percent -- I believe it was on Thursday.</p> <p>24 Q. And when was the Women's March?</p> <p>25 A. Saturday.</p>

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1 Q. And what was the connection between the Women's
2 Committee meeting on perhaps the Thursday, and the
3 Women's March on Saturday?
4 A. Initially, I guess some of the -- some of the
5 flight attendants had reached out to the chairperson
6 of the committee showing interest in going to the
7 Women's March and asking if our union had talked
8 about that.
9 She came to me and asked me -- asked me about
10 it. And I said that I didn't believe going to the
11 march was official union business. That if she
12 wanted to work with TW International, and actually
13 host a meeting and conduct -- you know, have an
14 agenda and conduct union business, and if people in
15 attendance chose to stay over and volunteer their
16 time, they could do that.
17 She was working on some of the volunteer
18 opportunities for the flight attendants to do while
19 we were in DC. But that is ultimately what
20 happened.
21 Q. Okay. Did you attend the entire march?
22 A. No, I did not.
23 Q. Did you see Ms. Carter when you were in
24 Washington?
25 A. No.

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1 THE COURT: Any objection to 49 that is
2 not in evidence yet?
3 MR. PRYOR: Object to the playing of the
4 video beyond what she says she viewed.
5 THE COURT: I understand that objection.
6 Any other objection to 49?
7 MR. GREENFIELD: No, your Honor.
8 THE COURT: Okay. I will overrule that
9 objection. And 49 is in evidence and you can
10 publish as much of which it as you wish.
11 (The referred-to document was admitted in
12 Evidence as Trial Exhibit 49.)
13 MR. McKEEBY: Okay. Go ahead.
14 (Thereupon, the video clip was played.)
15 MR. McKEEBY: You can turn it off.
16 BY MR. McKEEBY:
17 Q. I saw that you turned your eyes and I
18 understand that.
19 Did you see enough to recognize that as the
20 video?
21 A. Yes.
22 Q. During the phone call that you mentioned with
23 Mr. Schneider and Ms. Gutierrez, did they ask you
24 about the impact of those videos on you?
25 A. Yes, I believe so.

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1 Q. Did you later have an understanding that she
2 was in Washington?
3 A. I --
4 MR. PRYOR: Object, limine issue.
5 MR. McKEEBY: This is a yes or no. She
6 doesn't sound like she knows.
7 THE COURT: Yeah. You can answer yes or
8 no.
9 THE WITNESS: I don't remember.
10 BY MR. McKEEBY:
11 Q. Ms. Stone, we had not met face to face before
12 this trial, had we?
13 A. No.
14 Q. We had a Zoom call, I think it was last week,
15 prior to the trial, did we not?
16 A. Yes.
17 Q. And your attorney, Mr. Gillespie, was on that
18 call?
19 A. Yes.
20 Q. And I told you during that call I was going to
21 do something that I didn't want to do, did I not?
22 A. Yes.
23 Q. Okay. I would like to pull the second video,
24 Number 49, and publish it, and enter it as an
25 exhibit.

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1 Q. And did you tell them?
2 A. Yes.
3 MR. McKEEBY: I have no further questions,
4 Your Honor.
5 Thank you, Ms. Stone. I'm sorry to have
6 done that.
7 THE COURT: Thank you.
8 It is time for our afternoon break. So
9 what I will do, is I will call it now.
10 Then we can reset, and you can ask
11 questions round two, Mr. Pryor.
12 Same instructions: You can talk to your
13 fellow jurors, court personnel about this case.
14 Don't talk to anyone else. Don't do any research
15 about the case.
16 All rise for the jury.
17 We will see you in 10 minutes at 3:02.
18 (The jurors exited the courtroom.)
19 THE COURT: You are excused. You just
20 can't talk to anyone about the case.
21 Can we get Exhibit 15-A back from you? We
22 need to color scan that, and then we will give
23 everyone a copy of it.
24 My apologies.
25 No, that's fine.

<p style="text-align: right;">Page 792</p> <p>1 Anything we need to take up before the</p> <p>2 break? Okay. We are in recess, we will see you at</p> <p>3 3:02.</p> <p>4 (Recess.)</p> <p>5 THE COURT SECURITY OFFICER: All rise.</p> <p>6 THE COURT: Anything before we bring in</p> <p>7 the jury? Okay.</p> <p>8 Let us bring them in.</p> <p>9 And, Mr. Pryor, you can go ahead to the</p> <p>10 podium. I just want to shave down as much time as</p> <p>11 possible.</p> <p>12 And by the way, so when we finish round</p> <p>13 two, I have got to ask if anyone has a round three.</p> <p>14 I recommend you don't use a round three for shot</p> <p>15 clock reasons, but I will ask if anyone had a round</p> <p>16 three.</p> <p>17 MR. McKEEBY: You mean with this witness?</p> <p>18 THE COURT: Yes.</p> <p>19 (The jurors entered the courtroom.)</p> <p>20 THE COURT: Okay. You can be seated.</p> <p>21 Okay. Mr. Pryor, round two. It is your</p> <p>22 chance.</p> <p>23 REDIRECT EXAMINATION</p> <p>24 BY MR. PRYOR:</p> <p>25 Q. Ms. Stone, would you be surprised that if I</p>	<p style="text-align: right;">Page 793</p> <p>1 sent you a bloody horse head that said, "I'm for the</p> <p>2 recall petition," that that would be a crime?</p> <p>3 If I have killed a horse, I have cut it up and</p> <p>4 I have put its bloody carcass in your house with a</p> <p>5 message, that is a crime, right?</p> <p>6 MR. McKEEBY: Object, it requires a lay</p> <p>7 person to give a legal conclusion.</p> <p>8 THE COURT: I will let her answer, if she</p> <p>9 has personal knowledge.</p> <p>10 THE WITNESS: I don't know if killing a</p> <p>11 horse and cutting off its head is a crime.</p> <p>12 BY MR. PRYOR:</p> <p>13 Q. When asked for your personal knowledge and</p> <p>14 beliefs about a variety of other laws that counsel</p> <p>15 asked you about, you knew the answer.</p> <p>16 But you can't tell me that killing a horse and</p> <p>17 putting a bloody horse in your house with a message</p> <p>18 that you have no idea?</p> <p>19 MR. McKEEBY: Objection, asked and</p> <p>20 answered. And I don't know what part of it --</p> <p>21 THE COURT: Sustained.</p> <p>22 BY MR. PRYOR:</p> <p>23 Q. So Jeanna Jackson. Let's look at 21-O.</p> <p>24 21-O, I can bring it up to you. Here.</p> <p>25 THE COURT: I'm not sure O is. It's just</p>
<p style="text-align: right;">Page 794</p> <p>1 for the witness?</p> <p>2 MR. PRYOR: Yes -- well, no, it is for</p> <p>3 everyone. I just don't want to wait for the --</p> <p>4 THE COURT: I understand. You can</p> <p>5 approach the witness, that is fine.</p> <p>6 MR. PRYOR: I'm not terribly patient when</p> <p>7 on the clock.</p> <p>8 THE COURT: I appreciate that.</p> <p>9 MR. PRYOR: But I will wait.</p> <p>10 THE COURT: I have got the jury screens</p> <p>11 muted, so you can show it to everyone but the jury.</p> <p>12 MR. PRYOR: Well, I move for the admission</p> <p>13 of 21-0.</p> <p>14 THE COURT: 21-O, same objections as to</p> <p>15 the other 21 exhibits from Union and Southwest?</p> <p>16 Okay. So 21-O, I will admit over</p> <p>17 objection and say it is limited to the claims</p> <p>18 against the Union; it is not relevant to the claims</p> <p>19 against Southwest. And you can publish 21-0.</p> <p>20 (The referred-to document was admitted in</p> <p>21 Evidence as Trial Exhibit 21-O.)</p> <p>22 BY MR. PRYOR:</p> <p>23 Q. There it is.</p> <p>24 So this -- do you recognize this document as a</p> <p>25 document that talks about charges being brought by</p>	<p style="text-align: right;">Page 795</p> <p>1 the union against Jeanna Jackson?</p> <p>2 A. Yes.</p> <p>3 Q. And Jeanna Jackson is the one that we saw</p> <p>4 numerous emails that you were on where attempted</p> <p>5 charges were repeatedly brought to the attention of</p> <p>6 Southwest Airlines? That's the same person, right?</p> <p>7 MR. GREENFIELD: I'm sorry, objection,</p> <p>8 your Honor.</p> <p>9 THE COURT: Basis?</p> <p>10 MR. GREENFIELD: This is outside the scope</p> <p>11 of either mine of Mr. McKeeby's examination of</p> <p>12 Ms. Stone in regard to charges brought by the union.</p> <p>13 Neither of us talked about that.</p> <p>14 MR. PRYOR: They absolutely talked about</p> <p>15 Jeanna Jackson --</p> <p>16 THE COURT: Can you explain what you mean</p> <p>17 by that and -- in re-asking your question?</p> <p>18 MR. PRYOR: Okay.</p> <p>19 THE COURT: Explain what you mean by</p> <p>20 "charges brought."</p> <p>21 MR. PRYOR: Oh, by charge -- oh.</p> <p>22 BY MR. PRYOR:</p> <p>23 Q. I can read it. The union has examined the</p> <p>24 charges and found them to be proper.</p> <p>25 Charges are being brought against Jeanna</p>

<p style="text-align: right;">Page 796</p> <p>1 Jackson by the union.</p> <p>2 Do you understand that?</p> <p>3 A. Charges are brought about from a member of the</p> <p>4 union against another member.</p> <p>5 Q. Okay.</p> <p>6 A. It is not the union itself that brings charges.</p> <p>7 Q. Okay. So do you recall who brought the charges</p> <p>8 against Jeanna Jackson?</p> <p>9 MR. GREENFIELD: Objection, Your Honor. I</p> <p>10 renew my scope objection, and also would like to</p> <p>11 assert relevance.</p> <p>12 THE COURT: I think it is close enough.</p> <p>13 Proceed.</p> <p>14 MR. MORRIS: I'm sorry?</p> <p>15 THE COURT: I think it is close enough.</p> <p>16 Proceed.</p> <p>17 You can answer.</p> <p>18 THE WITNESS: I don't remember who brought</p> <p>19 charges against Jeanna.</p> <p>20 BY MR. PRYOR:</p> <p>21 Q. Do you recall that, in fact, this says that,</p> <p>22 The charges were found sufficient to require a trial</p> <p>23 for Sister Jackson.</p> <p>24 Did that happen?</p> <p>25 You don't know?</p>	<p style="text-align: right;">Page 797</p> <p>1 A. I believe there was a trial, yes.</p> <p>2 Q. You believe there was a trial and you know the</p> <p>3 result, don't you?</p> <p>4 A. I do not -- this isn't a document I have looked</p> <p>5 at since 2017. I don't recall the details of this.</p> <p>6 Q. I didn't ask you the details. I asked you, was</p> <p>7 there a trial?</p> <p>8 A. I think so.</p> <p>9 Q. You don't think so, you know so?</p> <p>10 MR. GREENFIELD: Objection, asked and</p> <p>11 answered.</p> <p>12 MR. PRYOR: I'm testing her answer. She</p> <p>13 absolutely knows.</p> <p>14 THE COURT: Test it once.</p> <p>15 BY MR. PRYOR:</p> <p>16 Q. Did you know?</p> <p>17 A. I think there was a trial.</p> <p>18 Q. So this person you had been on emails where you</p> <p>19 had been trying to get the company to do something</p> <p>20 against her for months, the union -- your union has</p> <p>21 a trial, and you only think there was a trial?</p> <p>22 Right?</p> <p>23 MR. GREENFIELD: Objection, your Honor,</p> <p>24 asked and answered.</p> <p>25 THE COURT: Sustained.</p>
<p style="text-align: right;">Page 798</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. And this trial that you think occurred, you</p> <p>3 also know the results of that trial that you think</p> <p>4 occurred, don't you?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. So I just want to make sure we are</p> <p>7 clear. You weren't sure there was a trial, but you</p> <p>8 are sure of what the result of the trial was, right?</p> <p>9 A. Yes, sir.</p> <p>10 Q. And that is pretty interesting, don't you</p> <p>11 think?</p> <p>12 MR. GREENFIELD: Objection, your Honor,</p> <p>13 argumentative. Sidebar.</p> <p>14 THE COURT: Sustained.</p> <p>15 BY MR. PRYOR:</p> <p>16 Q. And the result was that she was put on some</p> <p>17 type of suspension that prevented her from running</p> <p>18 for office in the next election, true?</p> <p>19 A. No. It is not a suspension under the</p> <p>20 TW International constitution.</p> <p>21 As I mentioned earlier, one of the results of a</p> <p>22 trial, if the members find a member to be guilty</p> <p>23 and -- of the charges presented, one of the</p> <p>24 disciplines or impact to that can be that they are</p> <p>25 made a member in bad standing, which means they</p>	<p style="text-align: right;">Page 799</p> <p>1 can't attend union meetings, they can't hold a union</p> <p>2 position and they couldn't run for office.</p> <p>3 Q. I'm sorry, I used the wrong phrase.</p> <p>4 But the point is, that the charges' result --</p> <p>5 or the result of the trial was she didn't qualify to</p> <p>6 run for the next election because she was in bad</p> <p>7 standing?</p> <p>8 MR. GREENFIELD: Objection, your Honor.</p> <p>9 If we can have a sidebar, please.</p> <p>10 THE COURT: You may.</p> <p>11 (Thereupon, the following proceedings were</p> <p>12 had at sidebar:)</p> <p>13 MR. GREENFIELD: I would like to renew my</p> <p>14 scope objection at this time. I believe we now are</p> <p>15 outside of it. We are talking about a document --</p> <p>16 excuse me -- a document from November 2016. This</p> <p>17 was well after Carter's termination and it is what</p> <p>18 Ms. Carter was terminated for and the reasons why</p> <p>19 she was terminated, after she was gone.</p> <p>20 THE COURT: Jeanna Jackson can be within</p> <p>21 the scope.</p> <p>22 MR. PRYOR: Exactly. Jeanna -- they</p> <p>23 raised Jeanna Jackson, acting like she had little or</p> <p>24 no involvement in it. And I'm entitled to now</p> <p>25 follow up on what -- I talked about all her</p>

<p style="text-align: right;">Page 800</p> <p>1 complaints about Jeanna Jackson. They followed up. 2 Now I'm following on what they did. I'm showing, 3 no, there is even more. 4 THE COURT: I will let you do it. I think 5 it is a really crummy use of your time. You are 6 taking time away from your client. 7 MR. PRYOR: If you think it is a crummy 8 use of our time -- 9 THE COURT: Every question you are asking 10 is a question you are not going to ask your client 11 when she's on the stand. You are making it all 12 about this one witness. 13 Again, if you want to do it, I think it is 14 of marginal value. I get it. That is why I put the 15 time clock on you. You can choose to do more 16 important things. 17 MR. PRYOR: I'm past the representing my 18 client. And I understand your opinion of our case, 19 but I'm the one that is charged with presenting it. 20 I know you are charged with judging it. I believe 21 it is important. I will get away from it as quickly 22 as possible, but I am concerned that you don't see 23 it as terribly relevant. 24 THE COURT: Go forth. 25 (Thereupon, the sidebar was concluded and</p>	<p style="text-align: right;">Page 801</p> <p>1 the following proceedings were held in open 2 court:) 3 THE COURT: You can proceed. 4 BY MR. PRYOR: 5 Q. You told me the Southwest Airlines 6 Investigating Committee that -- you said you didn't 7 say that you wanted -- that you wanted Charlene 8 Carter fired, you said that you just wanted it to 9 stop. 10 The only thing she ever did was send you 11 messages, correct? 12 A. Yes. 13 Q. And if you -- if that is all you wanted, all 14 you had to do was block her, true? 15 A. Could have stopped the message coming to my 16 Facebook. I was concerned about her sending those 17 images to other flight attendants that had been in 18 attendance with me, one of whom -- 19 Q. You wanted to stop her. 20 And by the way -- 21 A. May I finish? 22 THE COURT: You may finish. 23 BY MR. PRYOR: 24 Q. She never said -- 25 THE COURT: Hold on. She can finish.</p>
<p style="text-align: right;">Page 802</p> <p>1 MR. PRYOR: Oh, I thought she was 2 finished. Go ahead. 3 THE WITNESS: One of whom was very visibly 4 pregnant at the march. And blocking Charlene would 5 not have prohibited her from turning around and 6 sending that to any of the other women that were 7 with me. 8 BY MR. PRYOR: 9 Q. So Charlene sends these communication to her 10 union president. Every message she ever sent you, 11 she sent to you in a private message, not for anyone 12 else. No one could else open it. True? 13 A. Via Facebook, yes. 14 Q. Okay. So every Facebook message she sent was 15 to you, and it was private. 16 Do you have anything to tell this jury that she 17 sent those messages to anyone else? 18 A. I never stated that. I said I was worried 19 about that. 20 Q. So you were worried about that, but it 21 certainly wasn't something that had ever occurred. 22 And you could have blocked her? Right? 23 MR. GREENFIELD: Objection, your Honor, 24 lack of foundation as to Ms. Stone's knowledge about 25 what Ms. Carter sent to any other individual.</p>	<p style="text-align: right;">Page 803</p> <p>1 THE COURT: I will overrule that. 2 BY MR. PRYOR: 3 Q. You can answer. 4 A. I don't know. I don't know if she had ever 5 communicated with any of the women that there were. 6 Q. So what I'm asking, ma'am, is to your 7 knowledge -- to your knowledge -- did Charlene 8 Carter send any of the messages she sent to you to 9 anyone else? 10 A. No, not to my knowledge. 11 Q. Counsel asked you if Charlene Carter knows your 12 views on abortion, and I can't remember the other 13 questions. But what she was sending you was 14 complaints about her union, she didn't want her 15 union spending money on a march that was sponsored 16 by Planned Parenthood. It wouldn't matter what your 17 views on abortion were for that, would it? 18 A. Can you repeat the question, please? 19 Q. Yes. 20 Your views on abortion are not relevant to what 21 the Union -- what Charlene Carter viewed as the 22 Union spending money going to a Women's March 23 sponsored by Planned Parenthood, and her dues money 24 was being used for that. That was her complaint. 25 Your views on abortion don't affect that, right?</p>

<p style="text-align: right;">Page 804</p> <p>1 MR. McKEEBY: Objection, this is argument.</p> <p>2 THE COURT: I will allow that.</p> <p>3 MR. GREENFIELD: Your Honor, if I may</p> <p>4 object, counsel is inserting --</p> <p>5 THE COURT: No speaking objections. What</p> <p>6 is your basis?</p> <p>7 MR. GREENFIELD: Counsel is testifying</p> <p>8 with legal conclusion.</p> <p>9 THE COURT: That is fine. I will overrule</p> <p>10 that. You can answer the question.</p> <p>11 BY MR. PRYOR:</p> <p>12 Q. You can answer.</p> <p>13 A. The Union didn't spend union dues on the march.</p> <p>14 Q. That wasn't my question, was it, ma'am?</p> <p>15 A. It was in the question you asked me.</p> <p>16 Q. I'm talking about Charlene's concern, whether</p> <p>17 she was right or wrong about the Union spending</p> <p>18 money.</p> <p>19 Although, you answered my question yesterday</p> <p>20 that 20 women went up there on the Union's nickel,</p> <p>21 but, gee, not for the march. Well, that is not the</p> <p>22 way Charlene viewed it. But we can set aside that</p> <p>23 debate.</p> <p>24 From Charlene's view, the union was spending</p> <p>25 money on that march, and that is what she was</p>	<p style="text-align: right;">Page 805</p> <p>1 complaining to you about.</p> <p>2 Your views on abortion do not relate to that</p> <p>3 complaint, true?</p> <p>4 MR. McKEEBY: Same objection, this is</p> <p>5 argument.</p> <p>6 THE COURT: I will sustain this one.</p> <p>7 BY MR. PRYOR:</p> <p>8 Q. Does your view of abortion relate to Charlene</p> <p>9 Carter objecting to dues money being spent on the</p> <p>10 Women's March, in her opinion?</p> <p>11 MR. McKEEBY: Same objection, and asked</p> <p>12 and answered.</p> <p>13 THE COURT: I will allow this one.</p> <p>14 MR. PRYOR: Thanks, Judge.</p> <p>15 THE WITNESS: No.</p> <p>16 BY MR. PRYOR:</p> <p>17 Q. Now, ma'am, let's up put up Exhibit 47 they</p> <p>18 showed you a few minutes ago.</p> <p>19 This is the anatomically correct hats. And you</p> <p>20 were asked the question of, Did you wear this hat?</p> <p>21 You said no.</p> <p>22 You were asked the question of, Did you see</p> <p>23 anyone at the march wearing this hat?</p> <p>24 You said, No.</p> <p>25 But in fact, you know, because you testified</p>
<p style="text-align: right;">Page 806</p> <p>1 yesterday, that you found out that, in fact, women</p> <p>2 were wearing those hats at the march that your union</p> <p>3 participated in, true?</p> <p>4 A. No, sir, that is not what I recall saying. I</p> <p>5 recall you talking about these images being from</p> <p>6 women at the march.</p> <p>7 Q. Are you telling me, as you sit here today, that</p> <p>8 you don't know that there were groups of women</p> <p>9 wearing anatomically correct hats at the Women's</p> <p>10 March? Whether you saw them or not, you found out</p> <p>11 that that, in fact, happened?</p> <p>12 A. After the march, yes, I did find that out.</p> <p>13 Q. Okay. And Charlene was complaining about that</p> <p>14 occurring at a march that her union was at and she</p> <p>15 thought it reflected bad on the union.</p> <p>16 That is her complaint, right?</p> <p>17 A. Yes.</p> <p>18 Q. Let's look at Exhibit 94.</p> <p>19 I'm going to hand you a hard copy of this.</p> <p>20 MR. PRYOR: May I approach?</p> <p>21 THE COURT: You may.</p> <p>22 BY MR. PRYOR:</p> <p>23 Q. I'm going to ask you the same question I asked</p> <p>24 you about Exhibit 15 today. And that is, can you</p> <p>25 look through this and tell me if there is any</p>	<p style="text-align: right;">Page 807</p> <p>1 communication in here that you don't think is part</p> <p>2 of Ms. Carter's rights to object to her union? Or</p> <p>3 complain to her union? If you find a page, be sure</p> <p>4 and tell me, and we will talk about it.</p> <p>5 A. All of her messages are complaining about the</p> <p>6 union. All of the written text.</p> <p>7 Q. Is there anything in there that you think is</p> <p>8 not protected union activity on the part of</p> <p>9 Ms. Carter?</p> <p>10 A. I don't believe that sending me videos of dead</p> <p>11 babies is protected union activity.</p> <p>12 Q. Now, we can talk about that all you want,</p> <p>13 ma'am -- and we are getting ready to -- but in this</p> <p>14 exhibit, is there anything that is not</p> <p>15 union-protected activity?</p> <p>16 A. These are in this exhibit, the comment I just</p> <p>17 made. And I just answered that I do not believe</p> <p>18 that is protected union activity.</p> <p>19 Q. Which pages?</p> <p>20 A. The very back. 4264.</p> <p>21 Q. 4264.</p> <p>22 Okay. Other than 4264, are there any other</p> <p>23 communications in Exhibit 94 that you consider not</p> <p>24 to be union-protected activity?</p> <p>25 A. I don't know what the last page is. It is</p>

<p style="text-align: right;">Page 808</p> <p>1 referencing -- so I don't think the last page is 2 either, what I can see on it. 3 Q. The page talking about, Seek God now in prayer? 4 You don't know if that is related to union activity 5 or not? 6 A. No. 7 Q. Anything else? 8 A. No, not that I see. 9 Q. As to that last page, 4267, you don't recall 10 that the communication from Ms. Carter about Alveda 11 King and her opposition to abortion was relating to 12 her complaints regarding Planned Parenthood and the 13 Union's association with it at the march? 14 A. No. One of the exhibits that had a bunch of 15 stuff about King, I said that I had never seen that 16 before. 17 Q. Okay. Let's talk about the videos. 18 So you told me this morning -- or yesterday, 19 that one of the videos that you accidentally clicked 20 on to view was two or three seconds. And we watched 21 that this morning, right? 22 A. I never said I watched it for two or three 23 seconds. I said I watched part of it when it 24 automatically started playing, which videos in 25 Facebook can do.</p>	<p style="text-align: right;">Page 809</p> <p>1 Q. Okay. Wait. Facebook Messenger, you're 2 telling me now -- do you recall yesterday telling us 3 that you clicked on it inadvertently and that is 4 what made it start? 5 A. You kept asking me questions about videos not 6 automatically playing, and I would have had to have 7 hit play. And I answered that I must have 8 inadvertently hit it. 9 But there are times -- Facebook plays videos 10 without you going in and hitting play. 11 Q. Your testimony is, you have gone on to Facebook 12 Messenger, opened it up, and the video was playing 13 before you click on the video? 14 A. No. I'm talking about within Facebook. I 15 don't believe I have ever received other videos in 16 Facebook Messenger besides the one Ms. Carter sent. 17 Q. I'm just trying to get an answer to my 18 question. It is your testimony that that can happen 19 on Facebook Messenger? 20 A. No, sir. I am saying that within Facebook, 21 videos can automatically play. 22 Q. And I'm asking about Facebook Messenger, which 23 is where you received this video. 24 You accidentally clicked on it, was what made 25 it play, true?</p>
<p style="text-align: right;">Page 810</p> <p>1 A. I am still saying I don't know if I 2 inadvertently hit play. My recollection, as I have 3 said over and over, was that it started playing when 4 I opened that thread with Ms. Carter in it. 5 Q. Did you tell the Southwest investigating 6 committee that you looked at the message, saw what 7 it was about, didn't have time to look at the video, 8 and then clicked later? 9 A. No. That is not what I stated to them. 10 Q. And today, you tell us that you immediately 11 stopped playing the video, the first video, and 12 then -- I don't know, was it the next day that you 13 go to your hotel room and you decide you do want to 14 watch the second video, and you click on it and 15 watch it? 16 A. What I stated is that I saw enough of the first 17 video. I instantly became upset. I stopped playing 18 it. Removed myself from the boarding area until I 19 pulled myself together. 20 And then, yes, later on -- I believe it was the 21 next day -- I went back in and watched everything in 22 its entirety, and read the accompanying text 23 messages. 24 Q. So knowing what it was about, you made the 25 voluntary decision to watch these videos, true?</p>	<p style="text-align: right;">Page 811</p> <p>1 A. At that point, yes. 2 Q. And were you doing it at that point because you 3 wanted to see what happens to an unborn baby during 4 an abortion? Or because you wanted to use it to 5 bring charges against Ms. Carter? 6 A. Neither. I wanted to know exactly what had 7 been sent to me, why it had been sent to me, what -- 8 where this was coming from. 9 Q. Okay. Well, the messages told you why it was 10 sent to you. And you could also look on the caption 11 below the video to see where it came from. But you 12 also wanted to see what was in the video, true? 13 MR. GREENFIELD: Objection, your Honor, 14 counsel is testifying. 15 THE COURT: I will allow that. 16 THE WITNESS: I had no idea why those 17 videos had been sent to me at the time I opened it 18 and started watching it. 19 BY MR. PRYOR: 20 Q. So you watched the video, and you saw a baby 21 moving, true? 22 A. In one of them. It looked -- it appeared as if 23 the baby was moving. 24 Q. It appeared that the baby was alive. Movement 25 indicates life, true?</p>

<p style="text-align: right;">Page 812</p> <p>1 A. Yes.</p> <p>2 Q. And if anyone wanted to tell their union</p> <p>3 president -- forget your views on abortion -- but if</p> <p>4 you wanted to tell your union president, Don't spend</p> <p>5 our money on organizations that support this, and</p> <p>6 you wanted to protect a baby's life, can you think</p> <p>7 of a more effective means of doing it? You have</p> <p>8 cried every time you have talked about it. What is</p> <p>9 more effective?</p> <p>10 A. I don't think it was effective. I think it was</p> <p>11 harassment and disturbing.</p> <p>12 Q. It didn't change your view about abortion, did</p> <p>13 it?</p> <p>14 MR. GREENFIELD: Objection, your Honor,</p> <p>15 relevance.</p> <p>16 THE COURT: Sustained.</p> <p>17 MR. PRYOR: They asked her -- okay.</p> <p>18 BY MR. PRYOR:</p> <p>19 Q. It didn't change your view that a woman should</p> <p>20 get to decide whether or not to have an abortion?</p> <p>21 MR. McKEEBY: Objection, asked and</p> <p>22 answered.</p> <p>23 MR. GREENFIELD: Object to relevance.</p> <p>24 THE COURT: Yeah, I will sustain that one.</p> <p>25</p>	<p style="text-align: right;">Page 813</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. Can you tell me a more effective means of</p> <p>3 trying to tell someone that abortion is taking a</p> <p>4 life than that -- I'm not saying you have to agree</p> <p>5 with it -- can you think of a more effective means</p> <p>6 of trying to convince someone that abortion is</p> <p>7 taking a life than the actual video of the life that</p> <p>8 is being taken?</p> <p>9 MR. GREENFIELD: Objection, relevance as</p> <p>10 well.</p> <p>11 THE COURT: I will allow that.</p> <p>12 THE WITNESS: It was only effective in</p> <p>13 upsetting me.</p> <p>14 BY MR. PRYOR:</p> <p>15 Q. I'm not asking --</p> <p>16 A. -- making me feel harassed. It is not that I</p> <p>17 think it is an effective tool. I don't think that</p> <p>18 should be utilized.</p> <p>19 Q. You don't think that -- can you tell us a more</p> <p>20 effective means of doing it to convince someone --</p> <p>21 something better than actual video, of me sitting</p> <p>22 here and telling you statistics or anatomy lessons?</p> <p>23 What is more effective than the video?</p> <p>24 MR. GREENFIELD: Objection, your Honor,</p> <p>25 asked and answered.</p>
<p style="text-align: right;">Page 814</p> <p>1 MR. PRYOR: I'm looking for an answer.</p> <p>2 She hasn't answered it.</p> <p>3 THE COURT: I will let you ask it this one</p> <p>4 last time.</p> <p>5 THE WITNESS: Conversation would be more</p> <p>6 effective.</p> <p>7 MR. PRYOR: Thank you.</p> <p>8 THE COURT: Okay. Mr. Greenfield, round</p> <p>9 two.</p> <p>10 MR. GREENFIELD: No more questions, your</p> <p>11 Honor.</p> <p>12 THE COURT: Okay. Mr. McKeeby.</p> <p>13 MR. McKEEBY: I will be quick.</p> <p>14 RECROSS EXAMINATION</p> <p>15 BY MR. McKEEBY:</p> <p>16 Q. Ms. Stone, do you recall yesterday when</p> <p>17 Ms. Carter's counsel criticized you for not</p> <p>18 responding to the historical Facebook messages</p> <p>19 regarding -- they characterized as union activity?</p> <p>20 MR. PRYOR: Object to ad hominem comments</p> <p>21 and mischaracterizations.</p> <p>22 THE COURT: Can you rephrase it?</p> <p>23 MR. McKEEBY: I think I know what</p> <p>24 ad hominem is, and I -- oh, union counsel. I see.</p> <p>25 I get it now. No, that wasn't it. I didn't even</p>	<p style="text-align: right;">Page 815</p> <p>1 notice that.</p> <p>2 Let me start again.</p> <p>3 MR. PRYOR: Call me American Airlines</p> <p>4 Counsel.</p> <p>5 BY MR. McKEEBY:</p> <p>6 Q. Former counsel for American Airlines questioned</p> <p>7 you yesterday and criticized you for not responding</p> <p>8 to his client's historical emails, Facebook</p> <p>9 messages.</p> <p>10 MR. PRYOR: Now -- I'm sorry. I am</p> <p>11 objecting to mischaracterization. That is not what</p> <p>12 I did.</p> <p>13 THE COURT: I think he's going after the</p> <p>14 word "criticized."</p> <p>15 Is that correct? Is there any word other</p> <p>16 than "criticized" you can use to stop the objection?</p> <p>17 MR. McKEEBY: Sure.</p> <p>18 BY MR. McKEEBY:</p> <p>19 Q. Counsel for Ms. Carter yesterday questioned</p> <p>20 your failure to respond to his client's historical</p> <p>21 emails, text messages -- excuse me -- Facebook</p> <p>22 messages about union activity.</p> <p>23 Do you recall that?</p> <p>24 A. Yes.</p> <p>25 Q. And today he's saying you should have blocked</p>

<p style="text-align: right;">Page 816</p> <p>1 his client. Did you understand that?</p> <p>2 A. Yes.</p> <p>3 Q. Do you find that a little bit, oh,</p> <p>4 contradictory?</p> <p>5 A. Yes.</p> <p>6 Q. Have you ever blocked anyone on Facebook</p> <p>7 before?</p> <p>8 A. I have now.</p> <p>9 MR. McKEEBY: No other questions.</p> <p>10 THE COURT: Round three? Limited scope to</p> <p>11 round two.</p> <p>12 MR. PRYOR: No.</p> <p>13 THE COURT: Okay. That means we are done</p> <p>14 with you as a witness. I no longer have to tell</p> <p>15 you, you can't talk to anyone about the case. I can</p> <p>16 excuse you from the courtroom, but all witnesses are</p> <p>17 subject to the right to recall.</p> <p>18 It doesn't always happen, but occasionally</p> <p>19 it does, so be on standby. We may need your</p> <p>20 testimony back if something else happens during the</p> <p>21 trial.</p> <p>22 So thank you for being here.</p> <p>23 Thank you for your testimony, Ms. Stone.</p> <p>24 Okay, Carter can call the next witness.</p> <p>25 MR. PRYOR: At this time we call, by video</p>	<p style="text-align: right;">Page 817</p> <p>1 deposition, Brian Talburt.</p> <p>2 Have you already explained video</p> <p>3 depositions? I can't remember.</p> <p>4 THE COURT: I'm about to while you queue</p> <p>5 up the Talburt video.</p> <p>6 So I will tell the jury, there are legal</p> <p>7 reasons why a witness might not be able to be here</p> <p>8 in person. I don't have limitless power to draw</p> <p>9 people in who are beyond my geographic radius.</p> <p>10 So this next witness meets that test for</p> <p>11 being unavailable. They had him on a deposition,</p> <p>12 which means they took his sworn testimony earlier in</p> <p>13 the course of this case. And then I have reviewed</p> <p>14 that.</p> <p>15 And we are going to play the relevant</p> <p>16 portions of that deposition for you. You are</p> <p>17 supposed to treat that deposition, that video depo,</p> <p>18 the same as if that person were live, sitting here</p> <p>19 on the stand.</p> <p>20 I also need to say one more thing, which</p> <p>21 is there are some snippets of testimony here that go</p> <p>22 to an issue I have talked to you about earlier on</p> <p>23 Southwest, and maybe Southwest disciplining</p> <p>24 something, or claims on how Southwest treated</p> <p>25 somebody. I told y'all that is not relevant to</p>
<p style="text-align: right;">Page 818</p> <p>1 these claims against Southwest.</p> <p>2 Some of those are intertwined with this</p> <p>3 depo and we couldn't separate it out because it is</p> <p>4 not a live witness on the stand. So you will hear</p> <p>5 some of that. Please ignore that. That is my</p> <p>6 limiting instruction to you.</p> <p>7 With that, you can queue up Talburt and</p> <p>8 go.</p> <p>9 (Thereupon, the video clip was played and</p> <p>10 transcribed as follows:)</p> <p>11 E X A M I N A T I O N</p> <p>12 BY MR. PRYOR:</p> <p>13 Q. State your name, please.</p> <p>14 A. Brian Talburt.</p> <p>15 Q. Mr. Talburt, my name is Bobby Pryor. I</p> <p>16 represent Charlene Carter. Who have you --</p> <p>17 THE REPORTER: Mr. Talburt, please let the</p> <p>18 attorneys finish before you give an answer.</p> <p>19 BY MR. PRYOR:</p> <p>20 Q. Were you a supporter of Audrey Stone both when</p> <p>21 she ran for union leadership and while she was in</p> <p>22 union leadership?</p> <p>23 A. Yes. I supported her in her campaign.</p> <p>24 Q. Well, did you support her in her -- while she</p> <p>25 was a leader?</p>	<p style="text-align: right;">Page 819</p> <p>1 A. In most -- in most situations, yes.</p> <p>2 Q. What did you do as a member of CAN?</p> <p>3 A. Basically, that was lounge education and a</p> <p>4 lounge -- and a mobilization effort for contract</p> <p>5 negotiations.</p> <p>6 Q. That stands for Contract Action Network?</p> <p>7 A. Correct.</p> <p>8 Q. When were you part of CAN?</p> <p>9 A. Oh, that would have been for our first</p> <p>10 tentative agreement for a contract that ultimately</p> <p>11 was settled in 2015, I guess. So I'm guessing that</p> <p>12 would have been 2013.</p> <p>13 Q. Are you currently employed by Southwest</p> <p>14 Airlines?</p> <p>15 A. Yes, I am.</p> <p>16 Q. And what is your position?</p> <p>17 A. I'm a flight attendant.</p> <p>18 Q. Are you still a member of Local 556?</p> <p>19 A. Yes.</p> <p>20 Q. And your -- at this fact-finding meeting -- and</p> <p>21 did this also go to a Step 2?</p> <p>22 A. No.</p> <p>23 Q. So then at Step 1, who represented you?</p> <p>24 A. Brett Nevarez.</p> <p>25 Q. And was it argued at this meeting, at this</p>

<p style="text-align: right;">Page 820</p> <p>1 hearing by you and Brett Nevarez, that your actions 2 were protected from, among other reasons, that you 3 were engaged in union activity, in fact, engaged in 4 activity relating to an election? 5 A. Yes. 6 MR. GREENFIELD: Object to form. 7 It is incomplete, it is vague, and it's -- 8 it just paints an incomplete picture. 9 THE COURT: You can ignore the part where 10 they talk about objections. 11 Q. At this meeting, did you argue that your union 12 activities should be protected from Southwest's 13 social media policy? 14 A. Yes. 15 Q. And Mr. Nevarez supported that argument on 16 behalf of the leadership of Local 556, correct? 17 A. He supported that argument. Presumably the 18 rest would be accurate as well. 19 Q. And who was president at that time of the Local 20 556? 21 A. Audrey Stone. 22 Q. Now, did you ever engage -- and I think you 23 have answered this before, but it is a little bit 24 more specific -- did you ever engage in an effort to 25 target union member opponents of Stone's and her</p>	<p style="text-align: right;">Page 821</p> <p>1 slate, recall petition members or objectors of Local 2 556? 3 A. You would have to define the word "target." 4 Q. Okay. Then tell us -- tell the jury how you 5 would define "target" in regard to targeting union 6 member opponents to Stone and her slate, union 7 member opponents acting in favor of a recall, and 8 union objectors. 9 How would you use the word "target" in regard 10 to those three classes of people? 11 A. I -- I -- if -- I guess basically trying to 12 isolate or identify them. 13 Q. All right. So can you tell me, is all you did 14 to target those groups is just to find out who they 15 were? 16 A. No, I didn't. I didn't say that and that is 17 not what I did. 18 Q. So tell us what you did. 19 A. The only thing that -- what I can think of that 20 I did, would probably be turning in social media 21 violations for public comments that were made, 22 usually, that were inaccurate or offensive. 23 Q. So when you told Southwest Airlines you don't 24 want to turn anyone in for social media violations, 25 this is a nightmare, changed your mind?</p>
<p style="text-align: right;">Page 822</p> <p>1 A. Yes. 2 Q. So what did you do, then, to target these 3 groups? 4 A. Sent them to management, certain social media 5 posts that would have been incriminating. 6 Q. Who assisted you with that? 7 A. Assisted? 8 MR. McKEEBY: Object to the form. 9 THE WITNESS: I don't know that anybody 10 assisted me. I would have just forwarded it to 11 somebody. 12 BY MR. PRYOR: 13 Q. How did you identify those three classes of 14 people? 15 A. Anybody that would have been turned would have 16 nothing to do with being an objector. I don't even 17 know who -- the names of the objectors were not 18 public, or never disclosed, until they identified 19 themselves. 20 Q. Who do you remember turning in? 21 A. The only person that I can remember turning in 22 would have been Jeanna Jackson. I'm not saying that 23 is an inclusive list, but that is the only person 24 that comes to mind at this moment. Again, this is 25 eight years ago.</p>	<p style="text-align: right;">Page 823</p> <p>1 Q. What about Mike Casper? 2 A. More than likely, Mike Casper. Given an 3 opportunity, I would have, yes. 4 Q. And why Mike Casper, if you had been given the 5 opportunity? 6 A. Mike Casper was an -- has been an adversary for 7 many years, causing a great deal of dysfunction and 8 destruction to both Southwest and TWU. 9 Q. And so you would have targeted Ms. Jackson, and 10 if given the opportunity, Mr. Casper. 11 Anybody else? 12 A. When you say "targeted," I don't know that I 13 necessarily agree with the term you're using. 14 Did I turn them in using -- turn in their words 15 to Southwest? Yes. 16 Q. What was the result -- first of all, who at 17 Southwest management did you talk to about targeting 18 these three groups? 19 A. Whoever I sent them to. I don't know whether 20 it was the social media violations department or a 21 vice president, director, base man -- probably not 22 the base manager. I doubt that I would have 23 included them. 24 Q. You don't recall who you sent it to? 25 A. No.</p>

<p style="text-align: right;">Page 824</p> <p>1 Q. How did you decide who to send it to? Maybe 2 that will help us narrow it down. 3 A. Probably the people that I would have had 4 some -- the closer -- more of a working relationship 5 with, and felt more comfortable with. 6 Q. And what -- who would fall within that group? 7 A. Possibly our -- I don't believe Sonya Lacore 8 would have been vice president at that point; I 9 think she was a director. 10 Mike Simms would have been a director. 11 Q. And who would the director have been at that 12 point, Hafner? 13 A. I would just say -- so -- I believe Sonya 14 Lacore would have been a director at that point, as 15 would have been Mike Sims. 16 Q. Okay. So you think you would have spoken to 17 either Ms. Lacore or Mr. Sims or both? 18 A. Probably not spoken, probably would have 19 forwarded an email. 20 Q. Did you exchange emails on a regular basis with 21 Sonya Lacore? 22 A. Yes. 23 Q. And what time period would that have been? 24 A. Probably 2013 through -- I don't know. 25 Probably whenever she became vice president or</p>	<p style="text-align: right;">Page 825</p> <p>1 shortly -- shortly thereafter, I would guess. 2 I mean, I continued to have emails with her 3 over the years of various topics. 4 Q. And Ms. Lacore, what was her position at 5 Southwest Airlines? 6 A. Most of the time when I dealt with her more 7 regularly, she was a director. 8 Q. Director of what? 9 A. Director of in-flight. 10 Q. And explain to the jury what -- what that 11 means, to be director of in-flight? 12 A. I don't really know what the role is, to be 13 honest with you. It is one notch below a vice 14 president and one notch above a manager. So I don't 15 know what her specific duties were. 16 I worked with her on a couple of projects that 17 she was basically the liaison or oversaw what we 18 were doing. So that's when I had most of my contact 19 with her. 20 Q. All right. So this is an email from you to 21 Sonya Lacore dated April 29, 2014, correct? 22 (The videotaped testimony of the witness 23 was paused.) 24 MR. HILL: Exhibit 141 displayed. Trial 25 Exhibit 141.</p>
<p style="text-align: right;">Page 826</p> <p>1 THE COURT: Thank you. 2 (The videotaped testimony of the witness 3 was played.) 4 BY MR. PRYOR: 5 Q. And you sent this to her private email, 6 correct? 7 A. Apparently so, yes. 8 Q. With Facebook and 24/7 reach, the characters 9 become more relevant. Corliss particularly is 10 something that we not seen before, and it is 11 incredibly dangerous. 12 Who is Corliss? 13 A. A Southwest flight attendant. 14 Q. So now you are identifying another Southwest 15 Airlines employee in referring to her as "incredibly 16 dangerous," correct? 17 A. Correct. 18 Q. You say, "The attitude she spawns is TW 19 Airlines in the '80s. People listen and people 20 react." 21 What are you referring to when you say, "She 22 spawns Northwest Airlines in the '80s"? 23 A. Northwest Airlines was notorious for having 24 very poor labor management relations. 25 Q. And they had a --</p>	<p style="text-align: right;">Page 827</p> <p>1 A. And history -- and historically, at Southwest 2 Airlines, we did not have that. 3 Q. Okay. So you were warning Ms. Lacore that 4 Corliss spawns an attitude of union problems with 5 management, in your opinion? 6 A. Right. 7 Q. Did you say -- 8 A. In my opinion, correct. 9 Q. Did you say "right"? 10 A. In my opinion, correct. 11 Q. And then you said, "I am all about targeted 12 assassinations," correct? 13 A. That's what I said. 14 Q. And did Ms. Lacore report to you, to your 15 knowledge, to Southwest management for any of the 16 words that you have -- that we've read so far in 17 this email? 18 A. Not to my knowledge. 19 Q. And you know that targeted assassinations gets 20 you in trouble, because you got in trouble about 21 that, didn't you? 22 A. That would have been -- I'm looking at the 23 timeline. Apparently so, yes. 24 Q. I understand your defense of the terms. What 25 I'm pointing out is, you've been disciplined for</p>

<p style="text-align: right;">Page 828</p> <p>1 this language, and you felt comfortable using it</p> <p>2 with a senior member of in-flight management at</p> <p>3 Southwest Airlines, correct?</p> <p>4 A. Correct.</p> <p>5 Q. It says, I am sure with her dreadful work</p> <p>6 history, there could be opportunity.</p> <p>7 Are you there talking about exactly what you</p> <p>8 mean, as you tell us about "targeted</p> <p>9 assassinations"? You're not suggesting that you are</p> <p>10 going to assassinate Ms. Corliss, you're suggesting</p> <p>11 that taking advantage of her dreadful work history</p> <p>12 could be the opportunity to get -- I don't know --</p> <p>13 A. Apparently, yes.</p> <p>14 Q. Then you say, She will play very well to the</p> <p>15 heavy, inner-city minority crowd coming on board</p> <p>16 soon. She will be their voice. She will be a huge</p> <p>17 threat in our upcoming election as well. She plays</p> <p>18 very well to her crowd and has as much support as</p> <p>19 anyone I have seen in the past.</p> <p>20 You wrote those words and you sent them to</p> <p>21 Sonya Lacore, correct?</p> <p>22 A. It appears so, yes.</p> <p>23 Q. Okay. And you know Ms. Lacore did not report</p> <p>24 you to Southwest Airlines for violation of any</p> <p>25 Southwest policies as a result of this, correct?</p>	<p style="text-align: right;">Page 829</p> <p>1 A. Not that I'm aware of.</p> <p>2 Q. Do you think that your words here are racist?</p> <p>3 A. No.</p> <p>4 Q. Didn't you say -- I'm going to skip down to the</p> <p>5 next paragraph -- well, no, let me go to the last</p> <p>6 sentence here.</p> <p>7 You're talking about Sam Wilkins. And then you</p> <p>8 say, Everybody loves her. But then you say, Well,</p> <p>9 everyone except the Haters.</p> <p>10 And that is a capital "H."</p> <p>11 Who is haters?</p> <p>12 A. The opposition to the current administration.</p> <p>13 Q. So union members who oppose the current union</p> <p>14 leadership?</p> <p>15 A. Not necessarily oppose, but are vocal and</p> <p>16 public.</p> <p>17 Q. No, sir. Just now, you said that she would</p> <p>18 know, that Ms. Lacore would know. We'll put these</p> <p>19 words up for the jury. Here's your chance to see if</p> <p>20 you can tell the truth under oath.</p> <p>21 Did you tell -- say that she would understand</p> <p>22 that haters meant anyone that was opposed to the</p> <p>23 current union administration?</p> <p>24 You can answer.</p> <p>25 A. I said that's not entirely what I meant.</p>
<p style="text-align: right;">Page 830</p> <p>1 Q. So --</p> <p>2 A. What I meant was -- Sonya -- Sonya would be</p> <p>3 well aware of the people that were extremely vocal</p> <p>4 publicly about our current administration. There</p> <p>5 was no secret about that.</p> <p>6 Q. The next paragraph says, Social media is, by</p> <p>7 far, the major source of reach and must be used to</p> <p>8 our advantage.</p> <p>9 Are those the words that you used?</p> <p>10 A. Yes.</p> <p>11 Q. And then you go down to the next paragraph.</p> <p>12 Cancer is a dangerous thing and must be eradicated</p> <p>13 wherever possible before it spreads.</p> <p>14 By the way, if you go back up to that first</p> <p>15 paragraph, the cancer example you gave us as to</p> <p>16 Mr. Casper, right?</p> <p>17 A. Yes.</p> <p>18 Q. And is that what you're referring to here or</p> <p>19 are you talking about a larger group of people?</p> <p>20 A. Well, I'm talking about a movement. Casper</p> <p>21 would have been a pioneer in that movement.</p> <p>22 Q. You said, I would highly encourage targeting</p> <p>23 people, and a one-day detective with a video camera</p> <p>24 is a very cheap investment.</p> <p>25 Is that a recommendation that you were making</p>	<p style="text-align: right;">Page 831</p> <p>1 to Ms. Lacore?</p> <p>2 A. Apparently so, yes.</p> <p>3 Q. What were you trying to avoid by sending it to</p> <p>4 her personal email?</p> <p>5 A. The filters that it may go through at</p> <p>6 headquarters as opposed to not going directly to</p> <p>7 her. I don't know who reads things at headquarters.</p> <p>8 Q. Why would you be concerned about someone</p> <p>9 reading this? If you are not doing anything wrong,</p> <p>10 why are you concerned?</p> <p>11 A. It was a personal -- personal communication</p> <p>12 between two people.</p> <p>13 Q. And so you are worried about your -- you have</p> <p>14 told us now. You couldn't remember, but now you</p> <p>15 told us in what you wrote. You didn't want a paper</p> <p>16 trail about these communications, did you?</p> <p>17 A. I didn't want to put -- basically, this was a</p> <p>18 one-sided communication. It was not intended, nor</p> <p>19 expected to be -- I didn't want her to think that a</p> <p>20 reply was to be expected.</p> <p>21 Obviously, I'm using some inflammatory, some</p> <p>22 colorful language and I would not expect her in her</p> <p>23 position to respond to that. So I was basically</p> <p>24 sharing my thoughts with her. Nothing more.</p> <p>25 Q. You sent this to Ms. Stone; one of the reasons</p>

<p style="text-align: right;">Page 832</p> <p>1 was to point out that in that email below, you used</p> <p>2 the "targeted assassinations" metaphor.</p> <p>3 And at another point in time, you got no</p> <p>4 trouble. But here, this shows that you had used it</p> <p>5 before with senior management. Not gotten in</p> <p>6 trouble. And it was clear that you were talking</p> <p>7 about terminating someone's job, not killing</p> <p>8 someone, is that accurate?</p> <p>9 A. Not necessarily terminating somebody's job, but</p> <p>10 basically being held accountable, yes.</p> <p>11 Q. Other than that, either terminating their job</p> <p>12 or holding them accountable, my statement was an</p> <p>13 accurate summary?</p> <p>14 A. Yes.</p> <p>15 Q. So in your naive way of thinking, in fact, you</p> <p>16 told Ms. Stone that the reason you did this</p> <p>17 communication the way you did with Ms. Lacore was to</p> <p>18 keep it off the record. You even put quotes on</p> <p>19 around it, true?</p> <p>20 A. Yes. Apparently, yes.</p> <p>21 MR. McKEEBY: This is trial Exhibit 26.</p> <p>22 MR. HILL: Trial Exhibit 26 is being</p> <p>23 displayed.</p> <p>24 THE WITNESS: Could you make this a little</p> <p>25 bigger?</p>	<p style="text-align: right;">Page 833</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. Let me scroll up. Do you know if you sent this</p> <p>3 to Audrey Stone and her response was "Not relevant"?</p> <p>4 A. Okay.</p> <p>5 Q. I'm asking you if you agree that is what is --</p> <p>6 I think it is, but I need you to tell me that's what</p> <p>7 you think as well.</p> <p>8 A. That's what it looks like, yes.</p> <p>9 Q. Okay. All right.</p> <p>10 So at the bottom, there is something that says</p> <p>11 from Mike Hafner to Brian, and that's you, right?</p> <p>12 A. I'm sorry. Where are we looking at?</p> <p>13 Q. Can you see my cursor? If you look at the</p> <p>14 bottom, on August 16th, 2013 at 6:21 a.m., it</p> <p>15 appears that you received an email from Mike Hafner</p> <p>16 that was also sent to Matthew -- and I don't know</p> <p>17 how to pronounce his last name.</p> <p>18 At the very bottom, do you see where it says</p> <p>19 "Trial Exhibit 26"?</p> <p>20 A. Oh, yes. Yeah. My phone is blocking it. I</p> <p>21 can't see it.</p> <p>22 Q. Okay, fair enough.</p> <p>23 And if you look to the left of that, you see it</p> <p>24 is an email from Mike Hafner that you're carbon</p> <p>25 copied on? At 6:21 a.m.?</p>
<p style="text-align: right;">Page 834</p> <p>1 A. Yes.</p> <p>2 Q. And I don't have anything else about that</p> <p>3 email.</p> <p>4 But if you look at the email above, are you</p> <p>5 able to tell us any recollection you have of what</p> <p>6 Mr. Hafner was sending you? If it helps, the</p> <p>7 subject line says, "Re: Facebook."</p> <p>8 A. Okay.</p> <p>9 Q. Do you recall what Mr. Hafner was communicating</p> <p>10 to you in that email?</p> <p>11 A. I -- I don't know. I mean, I know what -- I</p> <p>12 know what the email is about, but I don't know what</p> <p>13 Hafner was responding to, no.</p> <p>14 Q. So then at that time Mr. Hafner was in what</p> <p>15 position?</p> <p>16 A. In 2013, he would have been the vice president</p> <p>17 of in-flight services.</p> <p>18 Q. And that's a member of senior management of</p> <p>19 Southwest Airlines?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Then you go on to say, But it is an</p> <p>22 illustration of casual, behind-the-scene</p> <p>23 conversations we have, and particularly social</p> <p>24 media. That's what you wrote, correct?</p> <p>25 Do I need to make it bigger?</p>	<p style="text-align: right;">Page 835</p> <p>1 A. No. No. I'm just --</p> <p>2 Q. Do you agree that that is what you wrote?</p> <p>3 A. Yes.</p> <p>4 Q. And then you write, I, along with Mike and</p> <p>5 Sonya, had a meeting last summer with VdV to discuss</p> <p>6 social media as a tool.</p> <p>7 Did you write that?</p> <p>8 A. Yes.</p> <p>9 Q. And is "Mike," Mike Sims?</p> <p>10 A. No. Mike Hafner.</p> <p>11 Q. Oh, I'm sorry. Mike Hafner.</p> <p>12 And is "Sonya," Sonya Lacore?</p> <p>13 A. Yes.</p> <p>14 Q. And that's the same Sonya Lacore as the last</p> <p>15 email we were looking at that you were talking about</p> <p>16 using social media to target assassination.</p> <p>17 Again, to you that means termination or</p> <p>18 otherwise hold them accountable, such as Ms. Corliss</p> <p>19 and Mr. Casper?</p> <p>20 A. This particular email is a completely different</p> <p>21 context and a completely different -- totally</p> <p>22 different angle than what that email said.</p> <p>23 Q. And that -- that wasn't my question.</p> <p>24 We can certainly talk about that question.</p> <p>25 But my question is, this is the same Sonya</p>

<p style="text-align: right;">Page 836</p> <p>1 Lacore you were talking to in that previous email</p> <p>2 marked trial Exhibit 141, about targeting for</p> <p>3 assassination union members such as Mr. Casper and</p> <p>4 Ms. Corliss, correct?</p> <p>5 A. The same person, yes.</p> <p>6 Q. And then it says, Had a meeting last summer</p> <p>7 with VdV. I think I read that. Who is VdV?</p> <p>8 A. Mike Van de Ven.</p> <p>9 Q. Van de Ven?</p> <p>10 A. Van de Ven.</p> <p>11 Q. Your union has been addressing Southwest</p> <p>12 Airlines social media policy for a long time. We</p> <p>13 have been bringing forward your concerns around the</p> <p>14 lack of clear guidelines on a policy that is both</p> <p>15 vague and undefined.</p> <p>16 We have witnessed inconsistencies around the</p> <p>17 way that the policy is applied, and it is often a</p> <p>18 subjective stance that Southwest management has</p> <p>19 displayed in administering the policy.</p> <p>20 Do you recall that?</p> <p>21 A. Yes.</p> <p>22 Q. And that was also your opinion, correct?</p> <p>23 A. Yes, of course.</p> <p>24 Q. And it was the opinion, as far as you know, of</p> <p>25 all of the leadership of the Union in 2015, of Local</p>	<p style="text-align: right;">Page 837</p> <p>1 556?</p> <p>2 A. I don't know. I can't speak for all of them.</p> <p>3 But one would assume so.</p> <p>4 Q. Okay. So could you, from conversations with</p> <p>5 Brett Nevarez, tell me whether or not you understood</p> <p>6 that to be his opinion as well?</p> <p>7 A. Yes. That was my understanding, yes.</p> <p>8 (The videotaped testimony of the witness</p> <p>9 was paused.)</p> <p>10 MR. HILL: Let the record reflect that</p> <p>11 what is displayed on the screen right now is trial</p> <p>12 Exhibit 19.</p> <p>13 (The videotaped testimony of the witness</p> <p>14 was resumed.)</p> <p>15 BY MR. PRYOR:</p> <p>16 Q. And that's your conversation with Mr. Nevarez?</p> <p>17 A. Yes, yes.</p> <p>18 Q. And that is also your understanding of</p> <p>19 Holcomb's opinion based on your conversations with</p> <p>20 him?</p> <p>21 A. Yes.</p> <p>22 Q. It certainly was the opinion of Ms. Stone, she</p> <p>23 not only wrote this, but that was also your -- your</p> <p>24 understanding from her from your dealings with her?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 838</p> <p>1 Q. Let's go down to the bottom. It says, On a</p> <p>2 personal note, however, please note that social</p> <p>3 media issues management investigated and the</p> <p>4 resulting discipline Southwest Airlines issued did</p> <p>5 not arise out of something management simply</p> <p>6 uncovered or stumbled upon.</p> <p>7 You are not generally monitoring our sites.</p> <p>8 Instead, these cases come about as our own flight</p> <p>9 attendants are turning each other in.</p> <p>10 These latest investigations have been as a</p> <p>11 result of flight attendant complaints. I am asking</p> <p>12 that we please consider stopping any back-and-forth</p> <p>13 fighting on social media.</p> <p>14 That was your understanding in April of 2015 as</p> <p>15 to Ms. Stone's opinion in this regard, correct?</p> <p>16 A. Yes.</p> <p>17 Q. And that was also your opinion, correct?</p> <p>18 A. Yes.</p> <p>19 (The videotaped testimony of the witness</p> <p>20 was paused.)</p> <p>21 MR. HILL: Let the record reflect Exhibit</p> <p>22 21-A is displayed. We are moving to 21-C, I see.</p> <p>23 (The videotaped testimony of the witness</p> <p>24 was resumed.)</p> <p>25</p>	<p style="text-align: right;">Page 839</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. And then let's look at Exhibit 21-C.</p> <p>3 A. Yes.</p> <p>4 Q. You are not on this email, but it is about the</p> <p>5 additional information. In the subject line, it</p> <p>6 says you provided Tammy. There are more posts from</p> <p>7 Brian. I think he's going through all of -- all of</p> <p>8 his archived files and digging up everything he can.</p> <p>9 ER is working with the bases and Brian.</p> <p>10 Did you have any conversations with anyone at</p> <p>11 Southwest Airlines that would inform that email?</p> <p>12 A. I'm not aware of.</p> <p>13 Q. So according to Ms. Emlet, she thinks you are</p> <p>14 going through all of the archived files, digging</p> <p>15 things up, and that you are going to be working with</p> <p>16 the bases, ER is going to be working with the bases</p> <p>17 and you. That's a fair interpretation of what we</p> <p>18 are reading here?</p> <p>19 A. How I'm reading it is they are going to seek</p> <p>20 further clarification on something that I provided</p> <p>21 them.</p> <p>22 Q. ER is "Employee Relations"?</p> <p>23 A. I believe so.</p> <p>24 Q. And "Bases" is the management at the various</p> <p>25 bases? And Brian is you?</p>

<p style="text-align: right;">Page 840</p> <p>1 A. Yes.</p> <p>2 Q. So --</p> <p>3 MR. HILL: Let me explain what is going on</p> <p>4 here as far as the sound. Mr. Talburt's headphones</p> <p>5 ran out of battery part way through the deposition.</p> <p>6 And he replaced them with a set of headphones that</p> <p>7 were extremely poor. We will get back to better</p> <p>8 sound later, but it is really difficult to hear them</p> <p>9 a little bit. You can kind of read the transcript.</p> <p>10 BY MR. McKEEBY:</p> <p>11 Q. So employee relations, which is part of the</p> <p>12 management of Southwest Airlines, is going to work</p> <p>13 with you and the bases about this information that</p> <p>14 you've been providing, according to this email,</p> <p>15 right?</p> <p>16 A. The way that she structured that, that</p> <p>17 statement, I don't agree with that, it's not that</p> <p>18 they are working with me, per se. You are making</p> <p>19 it -- you are portraying it as some grand</p> <p>20 conspiracy, and it's not that at all.</p> <p>21 Q. Well --</p> <p>22 A. I'm going to -- I'm going to assume that if I</p> <p>23 provided them something, they would ask for</p> <p>24 clarification.</p> <p>25 Q. Look at 21-U.</p>	<p style="text-align: right;">Page 841</p> <p>1 (The videotaped testimony of the witness</p> <p>2 was paused.)</p> <p>3 MR. HILL: 21-U is being displayed.</p> <p>4 (The videotaped testimony of the witness</p> <p>5 was resumed.)</p> <p>6 BY MR. PRYOR:</p> <p>7 Q. Can you see 21-U on your screen?</p> <p>8 A. Yes.</p> <p>9 Q. And this is an email from you to Mike Sims and</p> <p>10 Sonya Lacore, correct?</p> <p>11 A. Yes.</p> <p>12 Q. And here, do you recall this email? When does</p> <p>13 it stop?</p> <p>14 A. Yes.</p> <p>15 Q. And this is you complaining very heavily about</p> <p>16 Jeanna Jackson, and the social media policy should</p> <p>17 be utilized to terminate her?</p> <p>18 A. Yes.</p> <p>19 Q. True?</p> <p>20 A. Yes.</p> <p>21 Q. Then the exhibit we were previously talking</p> <p>22 about, 21-U, you acknowledge it was an email you</p> <p>23 sent to Sonya Lacore, to Mike Sims urging that</p> <p>24 Mr. Jones be terminated for violation of the</p> <p>25 Southwest social media policy.</p>
<p style="text-align: right;">Page 842</p> <p>1 You also carbon copied Ms. Stone on that email,</p> <p>2 correct?</p> <p>3 A. I don't -- did I?</p> <p>4 Q. It says president@TWU556. You were --</p> <p>5 A. I'm not seeing that there. That's why I'm</p> <p>6 not -- I'm not disputing that, I just don't see it.</p> <p>7 Q. Do you know who president@TWU556.org would be?</p> <p>8 A. Yes.</p> <p>9 Q. Who?</p> <p>10 A. It would be Audrey Stone.</p> <p>11 Q. Okay. So you did include Ms. Stone on this</p> <p>12 email where you were urging that the social media</p> <p>13 policy be utilized to terminate a union employee?</p> <p>14 A. Okay.</p> <p>15 Q. Sorry. Let me share screen.</p> <p>16 MR. HILL: Let the record reflect that</p> <p>17 trial Exhibit 27 is now displayed.</p> <p>18 BY MR. McKEEBY:</p> <p>19 Q. Do you see Exhibit 27?</p> <p>20 A. Uh-huh.</p> <p>21 Q. At the top of this, it says it is Brian Talburt</p> <p>22 to Audrey Stone, October 13, 2014, correct?</p> <p>23 A. Yes.</p> <p>24 Q. By the way, I -- before going into this</p> <p>25 exhibit, let me go back and ask you about the</p>	<p style="text-align: right;">Page 843</p> <p>1 reports you made in February of 2017 of the numerous</p> <p>2 individuals that you previously identified.</p> <p>3 Do you understand what I'm talking about now?</p> <p>4 A. Yes.</p> <p>5 Q. And are you aware that Audrey Stone, one or two</p> <p>6 days in the same time frame that you were sending</p> <p>7 those individuals who were members of the Union to</p> <p>8 Southwest Airlines for what you said were social</p> <p>9 media policy violations, at the same time you were</p> <p>10 doing that, Audrey Stone made a complaint against</p> <p>11 Charlene Carter.</p> <p>12 Are you aware of that?</p> <p>13 A. I've heard that, yes.</p> <p>14 Q. Okay.</p> <p>15 A. But I don't know what the date and time was.</p> <p>16 Q. Did Ms. Stone talk to you about that before she</p> <p>17 did it?</p> <p>18 A. No.</p> <p>19 Q. So it was just an incredible coincidence that</p> <p>20 you sent all of these people for investigation that</p> <p>21 were opposing the Union at the same time that</p> <p>22 Ms. Stone also reported Ms. Carter for social media</p> <p>23 policy violations, correct?</p> <p>24 A. I can't comment on that because I don't know.</p> <p>25 Q. And this says, To: Brian, From: Trudy and</p>

<p style="text-align: right;">Page 844</p> <p>1 Brett Nevarez, although it says, Love Brett. 2 That might be a joint personal email address 3 for Brett and his wife, is that correct? 4 A. Yes, I think so. 5 Q. And that was not sent on the Union email 6 address for some reason, apparently, right? 7 A. I don't know. 8 Q. You don't know? 9 A. I don't know. 10 Q. It says, leg-breaking time for Casper the ghost 11 scab. Did you tell me earlier that that was one of 12 the nicknames that you had for Mr. Casper? 13 A. It was a term -- that was he was -- how he was 14 frequently referred. 15 Q. Okay. And, apparently by other members of the 16 leadership of Local 556, correct? 17 A. I don't know. Brett would be the only person 18 that I would -- that probably would have used that. 19 Q. So at least one member of the leadership of 20 Local 556 was also referring to -- in addition to 21 yourself was referring to Mr. Casper as the ghost 22 scab, correct? 23 A. Yes. 24 Q. You can speak to Mr. Nevarez, saying, 25 leg-breaking time for Casper, the ghost scab.</p>	<p style="text-align: right;">Page 845</p> <p>1 That's what he wrote to you, correct? 2 A. Yes. 3 Q. Did you turn him in for a violation of the 4 Southwest policy for that? 5 A. I did not. 6 Q. Why not? 7 A. Well, I don't really see a violation of the 8 social media policy. That's, again, a metaphor, 9 leg-breaking time. Clearly, he did not mean he was 10 going to break Mike Casper's leg. He's -- he's 11 referencing old-time union mentality. 12 Q. Did you turn him in for a violation of any 13 Southwest policies? I didn't limit it to social 14 media. 15 A. I'm sorry. No, I did not. 16 Q. Although Rocky Mountain sent it to you, 17 correct? 18 A. It would appear so, yes. 19 Q. At the end, when he said, He is such an ass, do 20 you know who he's referring to? 21 A. Well, if it's -- if it's replying to the 22 comment below, I'm assuming he means Casper. 23 Q. Then -- you then include Audrey Stone in this 24 communication in which Mr. Casper is being referred 25 to as an ass and a ghost scab, correct?</p>
<p style="text-align: right;">Page 846</p> <p>1 A. Okay. 2 Q. Is that a yes? 3 A. Yes. 4 Q. And you say, A couple of things about this 5 thread. Please delete Brett's comment about 6 leg-breaking. Is that what you said? 7 A. Yes. 8 Q. Why are you wanting to delete that? 9 A. To be honest -- 10 (The videotaped testimony of the witness 11 was paused.) 12 THE COURT: Mr. Hill, can I ask, we're 13 about 20 minutes overdue for our last break of the 14 day. Do we know how much is left of the video? 15 MR. HILL: I would guess, like, in a -- 16 just a few minutes range. 17 THE COURT: Okay. Let's go ahead and try 18 and finish up, and then we will break between 19 witnesses. You can keep playing it. 20 MR. HILL: Scroll a second. Six, 7, 8 21 minutes. 22 THE COURT: Okay. Let's take our break 23 now. And so same instructions as always: You can 24 only talk to your fellow jurors and court personnel; 25 don't talk to anyone about the case; and don't do</p>	<p style="text-align: right;">Page 847</p> <p>1 any research about the case. 2 And we will see you back here in 3 10 minutes, at 4:24. 4 THE COURT SECURITY OFFICER: All rise for 5 the jury. 6 (The jurors exited the courtroom.) 7 THE COURT: Okay. Before we take our 8 break, when we come back and get the jury in, can 9 y'all move to admit 21-C, which is not in yet? It's 10 the only one that hasn't been already been admitted. 11 And then I can ask, Same objections, gibe 12 my ruling to let it in with a limiting instruction, 13 and then we will keep moving. 14 I will keep track of anything that has not 15 been admitted yet. We can do that at the end if 16 there is anything new that comes in. 17 And I forgot, too, to give the disclaimer 18 that when you see words on a transcript, they are 19 not evidence, like the video and the audio are. I 20 will give that disclaimer when they come back in -- 21 which is awfully amusing because it is the best 22 thing they have, given that there are some excerpts 23 from the bad headphones. 24 Any questions on that regard? 25 MR. McKEEBY: No.</p>

<p style="text-align: right;">Page 848</p> <p>1 MR. PRYOR: No questions, Your Honor, but 2 I have an issue. 3 THE COURT: Yes. 4 MR. PRYOR: Our next witness, because we 5 cut people, we let counsel know as soon as we did 6 cut them -- is Mr. Schneider, and I don't -- is he 7 here? 8 Never mind, it's not an issue. He is 9 here. 10 THE COURT: Awesome. We will see y'all in 11 eight minutes. 12 MR. McKEEBY: I have an issue. 13 THE COURT: You have an issue? 14 MR. McKEEBY: Well, Ms. Lacore -- 15 THE REPORTER: I need you to get to a 16 microphone. 17 MR. McKEEBY: Excuse me. Ms. Lacore, 18 witness Sonya Lacore, is going to be out of town 19 next week, so she will need to be called tomorrow to 20 the extent Carter is -- Ms. Carter and her counsel 21 plan to call her. 22 MR. GILLIAM: We will call her tomorrow. 23 THE COURT: Sounds great. All right. See 24 y'all in seven minutes. Court is in recess. 25</p>	<p style="text-align: right;">Page 849</p> <p>1 (Recess.) 2 THE COURT SECURITY OFFICER: All rise. 3 THE COURT: Anything else before we bring 4 in the jury? We can go ahead and bring in 5 Mr. Schneider and have him walking in while they are 6 walking in. Is that all right? 7 Are you calling Schneider now? 8 MR. McKEEBY: Yes. We already did, Your 9 Honor. 10 THE COURT: Let's do it. 11 THE REPORTER: Don't they have eight more 12 minutes of the video? 13 THE COURT: Oh, I'm sorry, video, eight 14 more minutes. I blanked on that. Do the eight 15 minutes. I'm going to admit 21-C when they are in. 16 We can bring them in. I will admit 21-C over object 17 limiting, give the disclaimer on transcript, and 18 then we will do that. 19 And then we will bring in Schneider. How 20 about that? And if someone wants to go out into the 21 hall to bring in Schneider. I just want to minimize 22 the dead time so we have as much time for y'all as 23 we can. 24 Does that make sense? 25 MR. McKEEBY: Thank you, Your Honor.</p>
<p style="text-align: right;">Page 850</p> <p>1 MR. PRYOR: Thanks. 2 MR. GREENFIELD: You guys got that joint 3 email out to the -- as the witness has gone out on 4 behalf of the parties. 5 THE COURT: Thank you. I appreciate that. 6 MR. HILL: Hunting on his way. 7 THE COURT: Hunting, okay. Happy Hunting. 8 (Discussion off the record.) 9 (The jurors entered the courtroom.) 10 THE COURT: Thank you. Y'all can be 11 seated. 12 Okay. Mr. Hill, are y'all moving to admit 13 21-C? 14 MR. HILL: We are indeed. 15 THE COURT: Okay. And same objections. 16 So I will overrule the objections, admit 17 21-C, which is the only exhibit you have seen on the 18 video that was not already admitted, with the same 19 instruction I gave on all the other subparts of 21, 20 which is it is for use against the Union's claims 21 but not for use against Southwest's claims. 22 I also need to give you a disclaimer I 23 think I should have done before we played the video 24 the first time. 25 The disclaimer is, the evidence you are</p>	<p style="text-align: right;">Page 851</p> <p>1 getting from this video deposition is the audio, and 2 the video that you are seeing. 3 We put the words of the transcript on the 4 bottom as a helpful aid to you, but if you hear 5 something different than the words you see on the 6 transcript, you are supposed to trust what you see 7 on the video and what you hear with your ears. 8 Just like I told you with notes, right, 9 the notes can't override what you see and what you 10 hear. The same disclaimer there. 11 With that, you can keep playing our last 12 eight minutes, Mr. Hill, thank you. 13 (The referred-to document was admitted in 14 Evidence as Trial Exhibit 21-C.) 15 (The videotaped testimony of the witness 16 was resumed.) 17 BY MR. PRYOR: 18 Q. To the present? 19 A. Yes. 20 Q. And then it says, Also, this was a private 21 email between Mike and I? 22 Who is "Mike"? 23 A. I don't know. 24 Q. I take this step very seriously, and would hate 25 to breach a confidence he obviously had in me based</p>

<p style="text-align: right;">Page 852</p> <p>1 on a long-time relationship we have developed. 2 You are talking about a Mike and a member of 3 the management of Southwest Airlines, correct? 4 A. To be honest, I don't know. 5 Q. Well, if you look further down, don't you refer 6 to exactly that? Is that -- you are saying you 7 don't recall who "Mike" is. 8 Tell us the name of anyone in Southwest 9 management that you had a -- let's see how you 10 describe it -- a long-term relationship. Name all 11 the Mikes in management at Southwest that you had a 12 long-term relationship with. 13 A. That would be Mike Hafner, would be the only 14 one that would be. 15 Q. So it says, This is just an illustration of the 16 types of conversations I had with senior Southwest 17 management, re: deal with problem people, and in 18 this case, specifically Hafner and Casper. 19 That's what you wrote, right? 20 A. Yes. 21 Q. So you've been talking to senior management 22 about targeting people such as, specifically, Hafner 23 and Casper using social media, right? 24 A. I'm sorry, "targeting" -- "targeting" them on 25 social media?</p>	<p style="text-align: right;">Page 853</p> <p>1 Q. Well, you can take away the word "targeted." 2 But we are talking about dealing -- let's -- what 3 word you used -- problem dealing with problem 4 people. 5 You were talking with senior members of 6 management at Southwest Airlines about dealing with 7 people such as Hafner and Casper by use of the 8 social media policy, correct? 9 A. Yes. 10 Q. That would include Mr. Hafner, correct? 11 A. Yes. 12 Q. That would include Ms. Lacour, correct? 13 A. Yes. 14 Q. That would include Naomi Hudson? 15 A. Yes. 16 Q. And did any of those people report up for any 17 violation of any Southwest policy as a result of 18 those communications? 19 A. I don't know. Not to my knowledge. 20 Q. And when it says the Rocky Mountain email, that 21 is Mike's personal email, does that now tell you who 22 Rocky Mountain is? 23 A. Yes. 24 Q. That's Mike Hafner, correct? 25 A. Yes.</p>
<p style="text-align: right;">Page 854</p> <p>1 Q. And Mike Hafner is the one that wrote, He is 2 such an ass, referring to Casper, the ghost scab, 3 correct? 4 A. Yes. 5 Q. Let me show you Trial Exhibit 29. 6 And the front cover of the center of that 7 picture is Ms. Stone, correct? 8 A. Yes. 9 Q. Who are the other people, if you know? 10 A. From left, Cuyler Thompson. 11 Q. Oh, right here is Mr. Thompson? 12 A. Yes. 13 Q. And who is this? 14 A. John Parrott. Sam Wilkins. Crystal Revenge, 15 Todd Gain, Brett Nevarez. 16 Q. And then are you able to see these posts here? 17 A. Yes. 18 Q. And it says, Click is getting agitated. I 19 think he may have private messaged in his way into 20 big troubles for himself. 21 And then two posts down, you say, We can only 22 hope. 23 And then someone says, Go to Click's screen 24 shots and save them or screen shot this posts. 25 Do you recall this?</p>	<p style="text-align: right;">Page 855</p> <p>1 A. I -- I don't recall it, but obviously it 2 happened. 3 Q. And this is another effort to use social media 4 to target a union member that didn't agree with your 5 current membership or current leadership? 6 A. It would appear so. 7 Q. When you say "it would appear so," is that a 8 yes? 9 A. It means it appears so. I have no recollection 10 of it, but it's on the screen and the names are 11 there, so I'm assuming it's accurate. 12 Q. Okay. You are not denying that you wrote that 13 and that's the way that you recall that and that's 14 the import of what you're reading? 15 A. Yes. 16 Q. Let me go to 60, trial Exhibit 60. 17 This is a document authored by Audrey Stone to 18 Suzanne, Suzanne Stephenson, Naomi Hudson, Sonya 19 Lacore. 20 Have you ever seen this document before? Take 21 your time with it, if you want. 22 I can tell you that that's the email in which 23 Ms. Stone complained of Ms. Carter. 24 A. No, I have never seen it. 25 Q. Okay. You can, however, that on this email,</p>

<p style="text-align: right;">Page 856</p> <p>1 it's sent to Naomi Hudson, correct?</p> <p>2 A. Yes.</p> <p>3 Q. And that's one of the people that you've</p> <p>4 identified that you were talking with this senior</p> <p>5 management at Southwest Airlines about using the</p> <p>6 social media policy to deal with problem employees,</p> <p>7 correct?</p> <p>8 I've used the exact language I asked you</p> <p>9 before, sir. Are you going to change it or are you</p> <p>10 going to agree?</p> <p>11 A. I guess I'll agree.</p> <p>12 Q. Okay. And then the same question as to Sonya</p> <p>13 Lacore, correct?</p> <p>14 A. Yes.</p> <p>15 Q. Here's another one. February 22nd, 2017.</p> <p>16 By the way, that's the same day that Audrey</p> <p>17 Stone made her complaint against Ms. Carter, the</p> <p>18 very day? Do you recall whether we looked at that?</p> <p>19 A. Yes.</p> <p>20 Q. So -- and so -- and that's just a coincidence</p> <p>21 as well, right?</p> <p>22 A. I -- I don't know anything about it. I don't</p> <p>23 know.</p> <p>24 Q. Okay. The trial Exhibit 71, again, you are</p> <p>25 forwarding various posts on social media against</p>	<p style="text-align: right;">Page 857</p> <p>1 some the individuals -- are involving the</p> <p>2 individuals that you turned in that you thought were</p> <p>3 violating Southwest Airlines's social media policy,</p> <p>4 correct?</p> <p>5 A. Okay.</p> <p>6 Q. Yes?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And then 72 is more of the same. Again,</p> <p>9 on February 22nd, 2017?</p> <p>10 MR. HILL: Now displaying Exhibit 72. I'm</p> <p>11 not going to -- probably going to stop and announce</p> <p>12 it, if it actually -- if Mr. Pryor's question says,</p> <p>13 Here is 71, here is 72 -- unless you tell me</p> <p>14 otherwise, Judge.</p> <p>15 THE COURT: That is a fine protocol.</p> <p>16 MR. HILL: Great.</p> <p>17 THE WITNESS: I don't have any</p> <p>18 recollection of it, but apparently so.</p> <p>19 BY MR. PRYOR:</p> <p>20 Q. You don't dispute that this was from you and</p> <p>21 that you sent it to Southwest Airlines management</p> <p>22 and that it had these posts to it? It's consistent,</p> <p>23 certainly, with your recollection that you were</p> <p>24 turning in people you thought were spreading</p> <p>25 misinformation, correct?</p>
<p style="text-align: right;">Page 858</p> <p>1 A. Yes.</p> <p>2 Q. All right. So you believe that you sent</p> <p>3 Exhibit 72, even though you don't recall the</p> <p>4 specifics right now?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. That's -- I think that covers the ones</p> <p>7 that you did. I'm going to have you identify a few</p> <p>8 more documents, and then we'll stop and wrap this up</p> <p>9 for you.</p> <p>10 Hold on. I don't think I have any more</p> <p>11 questions about these documents, I just want to make</p> <p>12 sure you identify them.</p> <p>13 This is Exhibit 21-M and this is Brian to Mike</p> <p>14 Sims. Here is the latest attempt. Having</p> <p>15 surrogates contact people to send this email to on</p> <p>16 her behalf. Funny, I didn't realize how much she</p> <p>17 loved Tom. And then you go on.</p> <p>18 But some -- but sweet how wonderful everything</p> <p>19 was and how wonderful our corrupt union was before</p> <p>20 Audrey.</p> <p>21 This is a communication in which you sent this</p> <p>22 email to Mike Sims regarding Jeanna Jackson in the</p> <p>23 email below, correct?</p> <p>24 A. Yes.</p> <p>25 Q. And let's look at Exhibit 21-P.</p>	<p style="text-align: right;">Page 859</p> <p>1 This is from you, and I'm not sure who-all it's</p> <p>2 to, but certainly its -- it includes Audrey Stone.</p> <p>3 Do you recall being careful, Julie. As a</p> <p>4 follow-up to our conversation yesterday, I am</p> <p>5 including the following recent posts. A further</p> <p>6 example of the public encouragement and endorsement</p> <p>7 of retaliatory practices that Jeanna Jackson and</p> <p>8 company.</p> <p>9 So this is February 23rd, 2017, one day after</p> <p>10 Ms. Stone made her complaint against Ms. Carter,</p> <p>11 you're sending this to Julie at Southwest Airlines</p> <p>12 management, correct?</p> <p>13 A. I sent that email on that date, yes.</p> <p>14 Q. And you sent it to Julie?</p> <p>15 A. Yes.</p> <p>16 Q. I know its blacked out, but it's clearly</p> <p>17 talking about Julie O'Grady.</p> <p>18 A. Okay.</p> <p>19 Q. You think so?</p> <p>20 A. Yes.</p> <p>21 Q. And then you attach what you're referring to in</p> <p>22 the email, correct?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. Just a few more.</p> <p>25 One, two, about five more.</p>

<p style="text-align: right;">Page 860</p> <p>1 Okay. This is to Brian from Debra. And below 2 that? 3 (The videotaped testimony of the witness 4 was paused.) 5 MR. HILL: 21-Q is now displayed on the 6 scene. 7 (The videotaped testimony of the witness 8 was resumed.) 9 BY MR. PRYOR: 10 Q. This is one from Debra to you saying, thank you 11 for sending these to us, Brian. Wow, its very 12 difficult to interpret the rest, but she 13 acknowledges that you sent the information, correct? 14 A. Yes. 15 Q. And your -- you may not remember this 16 specifically, but you're not denying that this was 17 the email that you received from her, correct? 18 A. I am not denying it, no. 19 Q. You think it is, right? You have no reason to 20 dispute it? 21 A. Correct. 22 Q. Okay. Let's look at 21-R. 23 Okay. This is a much longer email. And I'm 24 not going to go through it with you. 25 (The videotaped testimony of the witness</p>	<p style="text-align: right;">Page 861</p> <p>1 was paused.) 2 MR. HILL: Because you couldn't hear Mr. 3 Pryor, that is 21-R that is not displayed on the 4 screen. 5 (The videotaped testimony of the witness 6 was resumed.) 7 BY MR. PRYOR: 8 Q. I'm not going to go through it with you, but 9 what I would like you to do, that and your welcome 10 to read it. 11 This is as an email that you just we did before 12 that you sent to Julie on February 26th, 2017 and 13 carbon copied Audrey Stone. And I will just go as 14 slow as you want me to. 15 Do you agree with that statement? 16 A. Yes. 17 Q. Let's go to -- I just have one more. I have T, 18 21-T. And, again, this is an email that you sent on 19 March 1, 2017, and included Audrey Stone on, and it 20 just says, folks -- so I, I can't represent to you 21 who it went to, unless you can recall. 22 But do you agree that you did send this to 23 email to Ms. Stone? And if you recall who else, 24 please tell us. 25 A. Yes.</p>
<p style="text-align: right;">Page 862</p> <p>1 Q. Do you recall who "folks" are? 2 A. No. 3 Q. Okay. Let's look at 21-U. 4 That is the email May 15th, from you to -- it 5 looks like Mike. Well, you tell me, is that Mike 6 Sims or is that Mike Hafner? 7 A. Mike Sims. 8 Q. Did you send this email marked Trial Exhibit 9 21-U to Mr. Sims and then you received the thank-you 10 Brian response from Mr. Sims? 11 A. Yes. 12 Q. And he says, he will, presumably that we will 13 review your concerns? Do you see that? 14 A. Yes. 15 Q. All right. 16 Let's identify 21-V. And this is an email that 17 you sent on July 2nd, 2017 to Mike and Julie and 18 carbon copied Audrey Stone, correct? Correct? 19 A. Yes. 20 Q. And then this is the last one. 21 And by the way, "Mike" is Mike Sims, and Julie 22 is Julie O'Grady? 23 A. Yes. 24 Q. And I could be wrong, but I think this is the 25 last one. Trial Exhibit 21-W. This is an email</p>	<p style="text-align: right;">Page 863</p> <p>1 string from you to Audrey Stone that includes the 2 emails between you and it says, Why in the hell did 3 I not find the targeted assassination comments three 4 years ago when it would have been useful? 5 Do you see that? 6 A. Yes. 7 Q. Do you recall what you were talking about? 8 A. I'm assuming somebody used that -- I -- I -- I 9 don't know. I can only guess, speculate. I don't 10 know. 11 Q. All right. 12 You can identify 21-W as an email that, that 13 you sent to Ms. Stone? 14 A. Yes. 15 Q. Now -- 16 A. I'm assuming it's referencing one of my 17 termination cases where I was looking for evidence 18 of similar behavior. 19 Q. Yes. Were you referring to when you used 20 "targeted assassinations" in your communication with 21 Ms. Lacore? 22 A. No. 23 Q. You wish you had found that? 24 (The videotaped testimony of the witness 25 was concluded.)</p>

<p style="text-align: right;">Page 864</p> <p>1 MR. PRYOR: That was almost a videotape 2 deposition. 3 Your Honor, that is the end of the offer, 4 I think. There are exhibits we need to offer. 5 THE COURT: So I clocked exhibits 71, 72 6 and 21-M as potential exhibits we need to address 7 that were referenced that came up in the transcript 8 that are not in evidence. 9 MR. PRYOR: We offer them at this time. 10 THE COURT: Okay. So, Counsel, let's look 11 at 71, 72 and 21-M. We have talked about all of 12 those in a morning context. 13 Is there anything else you want to add to 14 what you have said to those three exhibits from our 15 morning sessions? 16 MR. GREENFIELD: No, your Honor. 17 THE COURT: Anything from Southwest? 18 MR. McKEEBY: Can I just have one second 19 to look at it? 20 THE COURT: You may. 21 MR. McKEEBY: Seventy-one, we have no 22 objection. 23 THE COURT: Okay. 24 MR. McKEEBY: Seventy-two, no objection. 25 And 21-M, I think, is the limiting</p>	<p style="text-align: right;">Page 865</p> <p>1 instruction. 2 THE COURT: Understood. And I have in my 3 notes I'm going to put the same limiting on all 4 three. 5 MR. McKEEBY: Okay. 6 THE COURT: Okay. So what I will do is, 7 I'll overrule the objections we talked about before 8 y'all came in the room. And then I'm going to give 9 the same limiting instruction, as with all of the 21 10 exhibits, these are for use in the claims against 11 the Union, not for use in the claims against 12 Southwest. So they are all admitted; after the 13 fact, published. 14 MR. HILL: Your Honor, just to make sure 15 that I don't miss submitting something for 16 admission, let me tell you the ones that I also show 17 as being introduced. 18 THE COURT: Okay. 19 MR. HILL: But I think maybe are already 20 on the list. But if they are not, I want to 21 introduce them. 22 THE COURT: Okay. Please say them. 23 MR. HILL: 21-U. 21-P -- these are all 24 21s, until I say otherwise -- Q, R, T, U, V, W. 25 Okay. So V is already in. W is not in.</p>
<p style="text-align: right;">Page 866</p> <p>1 And W was referenced in the -- 2 MR. HILL: It was. 3 THE COURT: Okay. U is in. V is in. T 4 is in. So we need to talk about W. 5 So you are moving for the admission of 6 21-W. 7 Any difference from the other 21 8 objections from Southwest to the Union? 9 MR. McKEEBY: No, no difference. 10 THE COURT: Okay. So the same ruling on 11 21-W. It is in. It is for use in the claims 12 against the Union, not in the claims against 13 Southwest. 14 (The referred-to documents were admitted 15 in Evidence as Trial Exhibits 71, 72, 21-M, and 16 21-W.) 17 With that, call your next witness. Let's 18 see what we can squeeze in. 19 MR. PRYOR: Ed Schneider, your Honor. 20 THE COURT: You may do so. 21 (The witness entered the courtroom.) 22 THE COURT: Mr. Schneider, come on down, 23 and you may approach the witness box. 24 I'm sorry it is so late in the day, but we 25 want to utilize the rest of our time to hear what</p>	<p style="text-align: right;">Page 867</p> <p>1 you have to say. 2 So you can approach, but before you make 3 yourself comfortable, can you raise your right hand? 4 And Mr. Frye is going to give you the oath. 5 (EDWARD SCHNEIDER was duly sworn by the 6 Clerk.) 7 THE COURT: Now you can make yourself 8 comfortable. It's a tight box, you can't really get 9 comfortable. 10 And I'm just going to ask for y'all to 11 have separation between questions and answers so we 12 can keep a clean record. 13 You can proceed. 14 DIRECT EXAMINATION 15 BY MR. PRYOR: 16 Q. Will you state your name, sir? 17 A. Edward Schneider. 18 Q. Mr. Schneider, we have never met before, 19 correct? 20 A. Correct. 21 Q. My name is Bobby Pryor. I represent Charlene 22 Carter. 23 Do you recognize her in the courtroom? 24 A. I do. 25 Q. And how are you employed?</p>

<p style="text-align: right;">Page 868</p> <p>1 A. I work for Southwest Airlines. 2 Q. What do you do for Southwest Airlines? 3 A. I'm the manager of the Denver in-flight base. 4 Q. Can you tell us what protected union activity 5 is? 6 A. Freedom of speech -- 7 MR. McKEEBY: Objection, calls for legal 8 conclusion. 9 THE COURT: I will allow him to answer, 10 only if he has personal knowledge. 11 THE WITNESS: I don't have personal 12 knowledge of it. I just know -- 13 BY MR. PRYOR: 14 Q. What is your understanding of what protected 15 union activity list? 16 MR. McKEEBY: Same objection. 17 THE COURT: I will overrule it and let him 18 answer. 19 THE WITNESS: They are allowed to have 20 speech towards the union, possibly, that -- 21 BY MR. PRYOR: 22 Q. Possibly what? 23 A. That is all I know. That is all I know. 24 Q. All you know is that they are allowed to have 25 speech that possibly? Is that your answer?</p>	<p style="text-align: right;">Page 869</p> <p>1 A. No. That they can show their opinions. 2 Q. Okay. And when you say it is -- that is 3 protected speech, what do you mean? 4 A. I don't know the definition of that. 5 Q. You don't know what you mean? 6 A. I'm sorry. You're going to have to rephrase. 7 Q. I asked what you meant when you said, Speech 8 toward the union. 9 A. I know that when they have disputes or 10 disagree, they are allowed to say those things to 11 union. 12 Q. And what are "those things"? Their 13 disagreements? 14 A. Yes. 15 Q. So they are allowed to express disagreements 16 with each other. 17 And when you say "allowed," what does that 18 mean? In regard to the Southwest policy they are 19 allowed? 20 A. I don't know what it would pertain to. 21 Q. So you don't know if a union person is engaging 22 in that protected speech you talked about, how that 23 relates to Southwest policy, true? 24 A. I'm saying I don't know the details. 25 Q. Okay. Well, tell us what you do know. I</p>
<p style="text-align: right;">Page 870</p> <p>1 didn't ask about details. I asked what you know. 2 MR. McKEEBY: Objection, argumentative. 3 THE COURT: I will let him answer. 4 THE WITNESS: As I stated, if they 5 disagree with something to do with the Union, they 6 can share their disagreement. That is as much as I 7 know about it. 8 BY MR. PRYOR: 9 Q. That wasn't what I asked you, you already 10 answered that question. 11 I'm asking you how that relates to the 12 Southwest policy? Southwest has policies, the Union 13 has protective activities. 14 Do you know anything about the relationship 15 between those two? 16 A. The Union and the company is completely 17 separate. 18 Q. And what about if I'm a union member and I want 19 to send a strong objection to my union president, 20 and I do that, and then the Union president 21 complains to Southwest Airlines, does that violate 22 Southwest policy? 23 A. It depends on what it is. 24 Q. Okay. So it is not -- 25 THE COURT: There was an objection, so let</p>	<p style="text-align: right;">Page 871</p> <p>1 me hear that. 2 MR. McKEEBY: Objection, no predicate, 3 foundation. I don't know what the question meant. 4 MR. PRYOR: He seemed to. 5 THE COURT: I will allow it to stand. 6 BY MR. PRYOR: 7 Q. All right. 8 So you have no guidance from Southwest Airlines 9 in your position as to the relationship between 10 protected speech involving the Union and Southwest 11 Airlines's policies, true? 12 A. It depends on what it is. 13 Q. I'm asking about the direction you received 14 from Southwest Airlines to explain to you about 15 union-protected activity as it relates to Southwest 16 policies. 17 Have you received any training on that? 18 A. I would have to look at them on an individual 19 basis and make a determination. 20 Q. I'm going to ask you focus on my question. 21 Are you ready for it? 22 A. Is that a question? Yes. I'm ready for it. 23 Q. Okay. Have you received any training -- you 24 got that part of the question? 25 A. I do.</p>

<p style="text-align: right;">Page 872</p> <p>1 Q. Any training about what union-protected 2 activity is and how that would relate to Southwest 3 Airlines' policies? 4 A. The only training we get is through experience 5 of seeing certain things happen, and be able to tell 6 one way or the other. But it -- like I stated, it 7 would depend on what the issue at hand was. And I 8 can't answer the question without knowing 9 specifically -- 10 Q. I'm not asking you about specifics. I was 11 asking you about your training, sir. We will be 12 getting into specifics. 13 So the training you have is your experience. 14 Tell us about your experience. 15 A. What experience are you indicating? At 16 Southwest Airlines? My experience working for the 17 company? Or what? 18 Q. The experience you just testified about. You 19 said -- I said, What training have you had about 20 union-protected activity and Southwest policies and 21 how those interact. 22 And you said, No training, experience. 23 Tell me about your experience. 24 A. I have worked for the company for 20 -- almost 25 28 years, and I have been a leader in this company</p>	<p style="text-align: right;">Page 873</p> <p>1 since 2004. 2 Q. I haven't heard anything about your experience 3 with understanding what protected-union activity and 4 Southwest policies. That is my question. 5 A. Once again, if it was something that happened, 6 I cannot give you generalizations if I have been 7 trained specifically on something unless I know what 8 you are talking about. 9 Q. So you don't even know enough about these two 10 subject matters to know if you have had training on 11 it, true? 12 A. I don't know the answer to that. 13 Q. Tell me what protected religious activity is. 14 Surely they trained you on that. 15 A. Protected religious is speech that reflects on 16 religion in the workplace. 17 Q. And what training have you received from 18 Southwest Airlines in regard to how to handle 19 someone that is claiming they have religious beliefs 20 that are interacting with Southwest policy? 21 A. We go through required training once a year on 22 different aspects involving that. And we go through 23 scenarios, similar to those. 24 Q. Give us one example. 25 A. Of?</p>
<p style="text-align: right;">Page 874</p> <p>1 Q. You just told me you get yearly training on 2 this and they give you examples. 3 Give us one. 4 A. So if somebody is offended by something and 5 they bring it to us, the protocol for what we are 6 supposed to do with that. 7 Q. You do what? 8 A. What the protocol would be on how we are 9 supposed to handle that. 10 Q. What is the protocol? 11 A. We have a department called Employee Relations 12 that handles those type of issues. 13 Q. Okay. 14 A. And I would work with them, if it were 15 something that was involving that. 16 Q. At any time, to your knowledge, has Employee 17 Relations or you, yourself, in your 28-years, 18 offered a religious accommodation without it being 19 specifically asked for? 20 A. I have not. 21 Q. Do you know, of all your involvement in 22 28 years with employee relations, has that been 23 done? 24 A. I don't, sir. 25 Q. You can't recall any, true?</p>	<p style="text-align: right;">Page 875</p> <p>1 A. I can't recall a certain instance of it. 2 Q. You can? 3 Tell us about it. 4 A. I said I can't recall a certain instance of 5 that happening. 6 Q. Okay. Did you consider that Charlene Carter 7 was engaged in protected union activity as part of 8 your investigation? 9 A. I know that Charlene Carter was speaking to the 10 Union or sending messages to union members 11 indicating that she was not happy with them. 12 Q. Did you believe she was engaging in 13 protected-union activity? 14 MR. McKEEBY: Same objection about calling 15 for a legal conclusion. 16 MR. PRYOR: It is his belief. 17 THE COURT: He can answer if he has 18 personal knowledge. 19 THE WITNESS: I don't have personal 20 knowledge of that. 21 BY MR. PRYOR: 22 Q. I'm asking about your belief. You have 23 personal knowledge of your belief about protected 24 activity of the Union? 25 MR. McKEEBY: Same objection, your Honor.</p>

<p style="text-align: right;">Page 876</p> <p>1 He's asking for a legal conclusion of a lay witness 2 as to what is protected and -- 3 MR. PRYOR: If we are having speaking -- 4 THE COURT: I will let him answer, if he 5 has personal knowledge. 6 MR. McKEEBY: He has already testified he 7 does not. 8 MR. PRYOR: This -- no. He's testified he 9 had a belief. And he testified he believed he knew 10 what -- 11 THE COURT: I will let him answer this 12 question, if he has personal knowledge. 13 BY MR. PRYOR: 14 Q. So when you -- you were in charge of the 15 investigation of Ms. Carter, correct? 16 A. Yes. 17 Q. Did you believe she was engaged in any union 18 protected activity? 19 A. There was a history of her sharing her opinions 20 to the Union. 21 Q. Did you believe those communications were 22 protected? 23 A. To me, they seemed harassing, to some extent. 24 But it could be -- it is just the history there is 25 all I reflected on. I didn't use that as any reason</p>	<p style="text-align: right;">Page 877</p> <p>1 to make a decision in that case. 2 Q. Have you read your notes before you prepared 3 the termination letter? 4 A. I did. 5 Q. And you are telling me you didn't consider 6 those communications as part of your decision to 7 terminate her? 8 A. I stated that I didn't consider whether that 9 was free -- speech -- protected speech or not. 10 Q. Oh, no, I'm totally agreeing. You didn't think 11 of it as protected speech, you just thought of it as 12 harassing, true? 13 A. I thought of it as her disagreeing with the 14 Union several times. 15 Q. I thought you said it was harassing? 16 A. They seemed to be in nature. 17 Q. You considered those communications in your 18 decision to terminate, but did not consider those 19 decisions protected union activity, true? 20 A. I can't say that. 21 Q. Okay. What can you say? So you did think it 22 was protected activity. I thought you told us it 23 wasn't? 24 A. I'm not sure what you are asking. 25 Q. Her communications that you looked at, that you</p>
<p style="text-align: right;">Page 878</p> <p>1 considered in your termination, you did that, right? 2 A. I didn't necessarily consider her statements 3 that she made to the Union in my decision. Her 4 termination was for what she posted on Facebook and 5 the messages that she sent to a Southwest employee, 6 the pictures and videos of the aborted baby. 7 Q. Again, we will be able to look at some 8 documents tomorrow, but I want to make sure we 9 remember what you just told us. 10 You did not consider anything for her 11 termination except the abortion videos and the 12 vagina hat pictures, would that be fair? 13 MR. McKEEBY: Objection. 14 THE WITNESS: No, it's not. 15 MR. McKEEBY: What else -- what else was 16 there. 17 THE COURT: He asked a question at the 18 end, and I will let him answer he question. 19 BY MR. PRYOR: 20 Q. What else was there? You just told us pictures 21 and video. 22 What else was there? 23 A. She was terminated for the bullying/hazing 24 policy and the social media policy. 25 Q. Okay. And what did you consider for that? I</p>	<p style="text-align: right;">Page 879</p> <p>1 thought you told me it was the videos and the 2 pictures; it wasn't these maybe harassing union 3 comments. 4 Was it the Union harassing comments, too? 5 A. It was for the -- she crossed the line when she 6 posted those videos, and pictures, and she sent them 7 to a Southwest employee. That is what I was trying 8 to say. And that is what I used as my basis for her 9 termination. 10 The comments and statements that she made to 11 the Union, just showed a history of her having a -- 12 that motivation to send things to the Union. 13 Q. So you considered those three things for 14 terminating Ms. Carter, what you considered to be 15 the harassing communications with the Union -- what 16 do you want to call it? 17 A. All I'm saying is, that for -- for 18 bullying/hazing, there was a history of her having 19 disputes with the Union. And the crossing line was 20 the videos and the pictures of the aborted baby. 21 Q. Were the written communications where she was 22 complaining about her union, that you went back 23 years to look at, were those -- did you consider any 24 of those to be bullying? 25 MR. GREENFIELD: Objection, your Honor,</p>

<p style="text-align: right;">Page 880</p> <p>1 asked and answered at least a few times at this 2 point. 3 THE COURT: I will allow this one. 4 THE WITNESS: Only as a history, that was 5 it. 6 BY MR. PRYOR: 7 Q. So it was not a violation of Southwest policy? 8 A. The history that she had with the Union. 9 Q. The history with the Union, was it a violation 10 of any Southwest policy? 11 A. Not on its own merits, no. 12 Q. Well, what other merits would it be? 13 A. The history of it would be pictures and videos 14 and Facebook posts, and the private message to 15 another Southwest employee. 16 Q. Without the sending of the video to Audrey 17 Stone of the abortion and the pictures of the vagina 18 hats and her posts on her personal Facebook page -- 19 her posts on her personal Facebook page, without 20 those three things, she would not have been found in 21 violation of any Southwest policy, true? 22 A. Most likely. 23 Q. What is most likely? What are we missing? 24 A. Because I used everything that was given to me. 25 These things were sent to me; I didn't ask for them.</p>	<p style="text-align: right;">Page 881</p> <p>1 They were offered to me as factual things that 2 happened in the past, and I considered everything 3 that was given to me. 4 The one thing, the egregious thing that she 5 did, though, was sending the pictures and the 6 videos. 7 Q. I just -- if you are not done, go ahead. 8 A. And posting on Facebook. 9 Q. I'm comfortable with whatever answer you give 10 me, but I am not comfortable with you having it both 11 ways. 12 Was it the videos, the pictures -- 13 MR. McKEEBY: Objection. 14 THE COURT: Sustained. You can ask your 15 question. 16 I will strike it. 17 You can ask your question now. 18 BY MR. PRYOR: 19 Q. The video, the picture, and the Facebook posts, 20 were those the basis of the termination? Or was it 21 also the -- what you called the harassing 22 communications with the Union? Was it all of that 23 or was it just some of it? 24 MR. McKEEBY: Objection, asked and 25 answered.</p>
<p style="text-align: right;">Page 882</p> <p>1 THE COURT: I will allow him to answer 2 this. 3 THE WITNESS: It was the posted pictures 4 on the Facebook page, the videos, the private 5 message sent to an employee, and the bullying and 6 hazing policy. 7 Also, the part of it was the nexus to the 8 workplace, where she was identifiable on Facebook as 9 a Southwest employee when she did these things. 10 BY MR. PRYOR: 11 Q. The bullying, what you said about the bullying, 12 was that the communications with the union that you 13 thought were a little too harsh? 14 A. It was the videos and pictures of the aborted 15 baby being posted on Facebook and being sent as a 16 private message. That is what I'm trying to portray 17 here. 18 Q. Okay. What I'm not hearing is the -- it may 19 have provided you background, but the communications 20 with the Union that you thought might have gone over 21 the top, other than the -- what you have just 22 mentioned, were not part of your termination 23 decision? 24 A. I never said that the video -- or the 25 communication was over the top. I just said that</p>	<p style="text-align: right;">Page 883</p> <p>1 that was history between her and the Union. 2 Q. But that wasn't part of your termination 3 decision? Those weren't factoring into your 4 termination decision? 5 MR. McKEEBY: Objection, asked and 6 answered. 7 THE COURT: I will let you answer it one 8 last time. 9 MR. PRYOR: I'm sorry. I still haven't 10 gotten it. It is just me. 11 MR. McKEEBY: He's answered. 12 BY MR. PRYOR: 13 Q. Go ahead. 14 A. It was the history, I was sent all of this 15 information. I considered the extent of the 16 information in my decision making. 17 The thing that crossed line, though, was the 18 videos and pictures posted and sent in private 19 message, and the other pictures of genitalia and 20 things. 21 Q. Did you consider the abortion video Facebook 22 message that was sent to be protected religious 23 activity? 24 MR. McKEEBY: Object to the form again. 25</p>

<p style="text-align: right;">Page 884</p> <p>1 BY MR. PRYOR</p> <p>2 Q. From your belief?</p> <p>3 MR. McKEEBY: It is calling for a legal</p> <p>4 conclusion.</p> <p>5 MR. PRYOR: He was the decision maker.</p> <p>6 THE COURT: I will allow him to answer, if</p> <p>7 he has personal knowledge.</p> <p>8 BY MR. PRYOR:</p> <p>9 Q. My question is, did you consider whether or not</p> <p>10 this was protected religious activity?</p> <p>11 How about that? Did you even consider that?</p> <p>12 MR. McKEEBY: Same objection.</p> <p>13 THE COURT: I will allow it.</p> <p>14 THE WITNESS: It was all part of my</p> <p>15 investigation. I looked at all of the information</p> <p>16 that was given to me, and I considered every aspect</p> <p>17 of it.</p> <p>18 And the conclusion that I came to was</p> <p>19 based on, overall, the video, the pictures, that</p> <p>20 were posted and sent in private message.</p> <p>21 I don't know any other way to say it to</p> <p>22 you.</p> <p>23 Q. I'm going to object to the responsiveness and I</p> <p>24 just ask you to focus on my question.</p> <p>25 A. Okay.</p>	<p style="text-align: right;">Page 885</p> <p>1 Q. Did you consider the speech or the</p> <p>2 communication, that Facebook communication with the</p> <p>3 abortion, the communication and the abortion video,</p> <p>4 to be religious activity at all?</p> <p>5 A. I pictured it -- I mean, I decided on it</p> <p>6 because of the egregiousness of it. Whether it was</p> <p>7 religious or not, it was the egregious act of</p> <p>8 sending it to somebody, posting it on Facebook,</p> <p>9 while being depicted as a Southwest employee.</p> <p>10 Q. It is he whether or not. Did you consider it</p> <p>11 to be religious activity?</p> <p>12 A. I didn't consider it to any extent to be</p> <p>13 religious activity.</p> <p>14 Q. Okay. And then what about the union activity,</p> <p>15 did you consider that Facebook post to be union</p> <p>16 activity at all? Was that part of your</p> <p>17 consideration?</p> <p>18 MR. McKEEBY: Objection, asked and</p> <p>19 answered. Again, calling for a legal conclusion.</p> <p>20 THE COURT: He split this one out, so I</p> <p>21 will ask the witness to answer.</p> <p>22 THE WITNESS: Can you say that one more</p> <p>23 time?</p> <p>24 BY MR. PRYOR:</p> <p>25 Q. Yes. You already told us you didn't consider</p>
<p style="text-align: right;">Page 886</p> <p>1 it religious.</p> <p>2 Now I'm asking you, did you consider that</p> <p>3 Facebook post to be part of her union activity?</p> <p>4 A. I considered it to be her opinion on abortion.</p> <p>5 MR. PRYOR: Object to responsiveness. I</p> <p>6 didn't ask you about that.</p> <p>7 BY MR. PRYOR:</p> <p>8 Q. Did you consider, as part of your termination</p> <p>9 decision, whether or not that Facebook message post</p> <p>10 was part of her union activity?</p> <p>11 A. No, I did not.</p> <p>12 MR. PRYOR: All right. This is a good</p> <p>13 place to break for the day, unless you would just</p> <p>14 like to go on.</p> <p>15 THE COURT: I think it is. Thank you for</p> <p>16 pointing that out.</p> <p>17 So the same instructions as always: You</p> <p>18 can always talk to your fellows jurors and court</p> <p>19 personnel, just not about the case. You can't talk</p> <p>20 to anyone else. And please don't do any research</p> <p>21 about the case.</p> <p>22 We will see y'all at 8:45 tomorrow to</p> <p>23 start at 9:00. Thank you for patience today.</p> <p>24 All rise for the jury.</p> <p>25 (The jurors exited the courtroom.)</p>	<p style="text-align: right;">Page 887</p> <p>1 THE COURT: Okay.</p> <p>2 And, Mr. Schneider, you are what we call a</p> <p>3 hold-over witness. So that means you can leave the</p> <p>4 stand and the courthouse, but you can't talk to</p> <p>5 anyone about the case until your testimony is over.</p> <p>6 Understood?</p> <p>7 THE WITNESS: Yes.</p> <p>8 THE COURT: Okay. Thank you for coming</p> <p>9 here today. Sorry about you being a hold-over</p> <p>10 witness. I know it is an inconvenience.</p> <p>11 Okay. After he leaves, I will ask if</p> <p>12 y'all if anything else we should talk about.</p> <p>13 (The witness exited the courtroom.)</p> <p>14 MR. PRYOR: I hope the Court recalls that</p> <p>15 when we had that conference and you suggested that</p> <p>16 maybe I should move on to another line of</p> <p>17 questioning, that I did.</p> <p>18 THE COURT: I do. And what I will say is,</p> <p>19 I have crunched some math this afternoon. I'm</p> <p>20 feeling charitable after seeing the faster cutdown</p> <p>21 Talburt depo and you are going to punch more</p> <p>22 quickly.</p> <p>23 So now let me just lay all my cards out</p> <p>24 here with y'all. So the trial I had going next</p> <p>25 week, I pushed to August. I'm supposed to fly out</p>

<p style="text-align: right;">Page 888</p> <p>1 on a Southwest plane on Thursday -- don't hold up 2 the flight or do anything with the flight, I'm a 3 normal passenger -- to a conference in Utah. 4 I had originally hoped the jury could get 5 this case early on Wednesday. But I think what I 6 can do is phone a friend for a favor and see if 7 another judge can cover jury notes, or deliberation 8 and taking a verdict. 9 And the jury gets the case at the end of 10 the day Wednesday. That frees up more time on 11 Wednesday for us to finish the evidence, have a 12 formal charge conference, read the jury charge, 13 close, close. 14 With that, I have come up with a bucket of 15 six hours. I am begrudgingly giving three to you 16 and reserving back, if the need arises, giving an 17 hour and a half to each of you because of prolonging 18 their presentation, if that makes sense. I'm giving 19 it to you more out of a charitable gift, than 20 anything else. 21 MR. PRYOR: I am turning cartwheels in 22 head. We will make good use of that time. Thank 23 you, Your Honor. 24 THE COURT: I appreciate that. I don't 25 know which judge would cover yet. I need to start</p>	<p style="text-align: right;">Page 889</p> <p>1 making those requests, and I will start doing that 2 now. All of the judges in the courthouse are 3 smarter than me, so I promise it will be an upgrade. 4 But I will still be available by phone -- 5 as long as I'm not in the air, I will be available 6 by phone. And my clerks have worked on this case. 7 The biggest thing I fear is a jury note 8 about the jury charge, right, and a new judge comes 9 in. That is a scenario I would like to avoid. But 10 I'm not, you know, out of cell range, and so I will 11 still be available. 12 So all that to say, yeah, I think that 13 is -- I think that is what I can do move some things 14 around. 15 I do need y'all's commitment to help me 16 keep trains on time. And we were doing a pretty 17 good job today, but there were sometimes a 10-minute 18 break became a 15. To the extent we can keep them 19 all, that is where my math lines up. 20 If we start taking 15, 20-minute breaks 21 then that -- the math just doesn't work out anymore. 22 there. 23 So it is a mutual agreement to have me 24 keep trains on time with y'all, and then me give 25 y'all all of the time we can possibly squeeze in.</p>
<p style="text-align: right;">Page 890</p> <p>1 Make sense? 2 So I'm not giving you your hour and a half 3 yet, but I'm holding it in reserve. It is like the 4 helicopters with a use in war fuel reserve. All 5 right? If we need to get there, we will do it. 6 MR. McKEEBY: But you are giving him three 7 hours? 8 THE COURT: I'm giving him three hours. 9 And I'm holding back, out of the additional time I'm 10 giving, an hour and a half that I can give y'all if 11 the need arises, because his presentation is now 12 longer. And equitably, yours should be too. 13 I hope you won't need it, but if you do, 14 it's there. 15 Does that make sense? 16 MR. McKEEBY: We are definitely done 17 Wednesday, at close of business. 18 THE COURT: Yeah, we got to be. Right? 19 We got to get this case to the jury at the close of 20 business Wednesday. 21 Now, if they stay to deliberate all night 22 or whatever, you know, it is what it is. They can 23 do what they want to do. 24 And at some point near the end, I will 25 have to tell them there is going to be another</p>	<p style="text-align: right;">Page 891</p> <p>1 person in a robe up here older and wiser than I am 2 if it gets past Wednesday. But I don't need to tell 3 them that yet. 4 Nevarez, nothing from Nevarez, right? 5 MR. McKEEBY: No, we have advised -- 6 MR. GREENFIELD: No, Judge. 7 MR. McKEEBY: -- counsel that I think we 8 already covered where he is and they are attempting 9 to serve him. 10 THE COURT: Well, I appreciate your 11 cooperation in that. 12 MR. HILL: Where we hope he is. We know 13 where he landed; we think he's going home. But -- 14 and that is where we are headed, is to his home. 15 But that is where we are. 16 THE COURT: Where in the World is Carmen 17 San Diego? It sounds like that the old show that my 18 kids still watch on TV. 19 So tomorrow morning, our 8:30 time -- you 20 know, I've styled it also as a show-cause hearing. 21 We will see if he shows up. I assume Southwest will 22 know in advance if he is showing up because he will 23 be flying standby. 24 MR. McKEEBY: Perhaps. 25 Your Honor, and just for purposes of the</p>

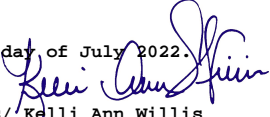
<p style="text-align: right;">Page 892</p> <p>1 record, I would like to object to the extension of 2 time. I don't think it is warranted. 3 Southwest prepared the case based on the 4 time limits set, and based on the denial of their 5 request for additional time. And I think it is more 6 than sufficient time to try this case in the 7 allotment originally provided. So Southwest 8 objects. 9 THE COURT: I understand, and I share a 10 lot of your sentiments. What I will say is, that 11 there are lot of unique attributes to this case, and 12 so I'm trying my best to accommodate everyone's 13 concerns. 14 I will say, going from 12 to 15, is not 15 the 26 that you wanted, but I think we can squeeze 16 it out. 17 So I appreciate your objection. I will 18 overrule it. But that is also, understand, I'm 19 giving you all we have. There is not another well 20 we can dip into. 21 MR. McKEEBY: Question, scheduling-wise, 22 on the jury charge, does the Court have a sense of 23 when we might be discussing that? 24 THE COURT: So I appreciate you bringing 25 it up.</p>	<p style="text-align: right;">Page 893</p> <p>1 The first thing is, I need to get 2 interrogatories to you, right? I gave you the jury 3 instructions; I still need to get you the questions. 4 So we are working on that. 5 My request would be, can we think about 6 maybe Monday morning starting at 8:00, which hurts, 7 instead of 8:30, and have a discussion informally on 8 the charge. It could be off the record. 9 I will say, if y'all have thoughts this 10 weekend that -- I never want to deprive people of 11 time to argue on the jury charge, especially in an 12 informal charge conference. But we will still get 13 the jury around 9, even if we don't have exhibit 14 objections to get to. 15 If anyone has deep, weighty thoughts and 16 cases, you can file something on the docket and I 17 promise I will read it, right? So you can file 18 whatever you want to that goes after the charge that 19 I have given y'all, if that makes sense. 20 And so I will take that into 21 consideration, in addition to whatever you tell me 22 Monday at 8:00 at an informal charge conference. 23 And those two things combined can give me 24 all I need to know, so that the formal charge 25 conference, when the jury is angry at us -- so that</p>
<p style="text-align: right;">Page 894</p> <p>1 it can be as streamlined as possible. 2 So Monday at 8, is that all right? 3 MR. McKEEBY: That works. 4 THE COURT: I'm sorry in advance. 5 Sorry. I should set a deadline for when 6 you file something in time for me to read it. 7 So can I ask by Sunday at 5, you file 8 anything in writing you want to that attacks my jury 9 charge and says where I'm wrong. 10 And that gives me time to read -- if you 11 file it, you know, Monday morning at 7:45, I just 12 won't have time to read it or think about it 13 beforehand. But I will be up on Sunday working on 14 your stuff anyway. So I will read that too. 15 Okay. So tonight, 6:00, 8:00, we have 16 more designations due and objections due? 17 MR. GILLIAM: Yes. 18 THE COURT: Okay. Anything else we need 19 to talk about? 20 Okay. Efficiency really did pick up. 21 Thank you. And that is in large part why I gave you 22 the additional time. 23 It has been efficient on your end today, 24 too. And I appreciate that. It has been 25 remarkable, so thank you for moving the ball</p>	<p style="text-align: right;">Page 895</p> <p>1 forward. 2 With that, I guess I will see y'all 3 tomorrow at 8:30. 4 Thank you. 5 (Proceedings adjourned at 5:19 p.m.) 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

C E R T I F I C A T E

I, Kelli Ann Willis, RPR, CRR, CSR
certify that the foregoing is a transcript from the
record of the proceedings in the foregoing entitled
matter.

I further certify that the transcript
fees format comply with those prescribed by the
Court and the Judicial Conference of the United
States.

This 8th day of July 2022.


s/ Kelli Ann Willis

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1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF TEXAS

3 CASE NO. 3:17-cv-02278-X
4

5 -----x
6 CHARLENE CARTER,

7 Plaintiff,

8 v.

9 SOUTHWEST AIRLINES CO. and
10 TRANSPORT WORKERS OF AMERICA,
LOCAL 566,

11 Defendants.
12

13 -----x
14
15
16 TRANSCRIPT OF THE TRIAL
17 BEFORE THE HONORABLE BRANTLEY STARR
18 UNITED STATES DISTRICT JUDGE
19

20 V O L U M E 4
21

22 Dallas, Texas

23 July 8, 2022

24 8:42 a.m.
25

<p style="text-align: right;">Page 898</p> <p>1 A P P E A R A N C E S:</p> <p>2</p> <p>3 FOR THE PLAINTIFFS:</p> <p>4 NATIONAL RIGHT TO WORK FOUNDATION INC.</p> <p>5 8001 Braddock Street</p> <p>6 Suite 600</p> <p>7 Springfield, Virginia 22160</p> <p>8 BY: MATTHEW B. GILLIAM, ESQ.</p> <p>9 mgb@nrtw.org</p> <p>10</p> <p>11 PRYOR & BRUCE</p> <p>12 302 North San Jacinto</p> <p>13 Rockwall, Texas 75087</p> <p>14 BY: BOBBY G. PRYOR, ESQ.</p> <p>15 MATTHEW D. HILL, ESQ.</p> <p>16 bpryor@pryorandbruce.com</p> <p>17 mhill@pryorandbruce.com</p> <p>18</p> <p>19 FOR THE DEFENDANT SOUTHWEST AIRLINES CO.:</p> <p>20 REED SMITH, LLP</p> <p>21 2850 North Harwood</p> <p>22 Suite 1500</p> <p>23 Dallas, Texas 75201</p> <p>24 BY: PAULO B. MCKEEBY, ESQ.</p> <p>25 BRIAN K. MORRIS, ESQ.</p> <p>pmckeeby@reedsmith.com</p> <p>bmorris@reedsmith.com</p>	<p style="text-align: right;">Page 899</p> <p>1 For the Defendant Union 566:</p> <p>2</p> <p>3 CLOUTMAN & GREENFIELD, PLLC</p> <p>4 3301 Elm Street</p> <p>5 Dallas, TX 75226</p> <p>6 BY: ADAM S. GREENFIELD, ESQ.</p> <p>7 EDWARD B. CLOUTMAN, III, ESQ.</p> <p>8 agreenfield@candglegal.com</p> <p>9 crawfish11@prodigy.net</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 900</p> <p>1 COURT REPORTER: MS. KELLI ANN WILLIS, RPR, CRR, CSR</p> <p>2 United States Court Reporter</p> <p>3 1100 Commerce Street</p> <p>4 Room 1528</p> <p>5 Dallas, Texas 75242</p> <p>6 livenotecrr@gmail.com</p> <p>7</p> <p>8 Proceedings reported by mechanical</p> <p>9 stenography and transcript produced by computer.</p> <p>10</p> <p>11 * * * *</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 901</p> <p>1 I N D E X</p> <p>2</p> <p>3 Show Cause Hearing 910</p> <p>4</p> <p>5 W I T N E S S E S</p> <p>6</p> <p>7 EDWARD SCHNEIDER</p> <p>8 Cont. Direct Examination by Mr. Pryor 922</p> <p>9 Cross-Examination by Mr. Greenfield 1133</p> <p>10</p> <p>11 SONYA LACORE</p> <p>12 Direct Examination by Mr. Pryor 1167</p> <p>13 Cross-Examination by Mr. McKeeby 1170</p> <p>14 Cross-Examination by Mr. Greenfield 1173</p> <p>15</p> <p>16 CHARLENE CARTER</p> <p>17 Direct Examination by Mr. Pryor 1175</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p style="text-align: right;">Page 902</p> <p>1</p> <p>2 EXHIBITS</p> <p>3</p> <p>4 Trial Exhibit 21-E 977</p> <p>5 Trial Exhibit 13 996</p> <p>6 Trial Exhibit 74 1051</p> <p>7 Trial Exhibit 89 1073</p> <p>8 Trial Exhibit 90 1085</p> <p>9 Trial Exhibit 92 1095</p> <p>10 Trial Exhibit 98 1100</p> <p>11 Trial Exhibit 111 1113</p> <p>12 Trial Exhibit 115 1118</p> <p>13 Trial Exhibit 64 1125</p> <p>14 Trial Exhibit 107 1126</p> <p>15 Trial Exhibit 138 1170</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 903</p> <p>1 -- PROCEEDINGS --</p> <p>2 -O-</p> <p>3 THE COURT SECURITY OFFICER: All rise.</p> <p>4 THE COURT: Thank you, you can be seated.</p> <p>5 Okay. So we are on day --</p> <p>6 (Discussion off the record.)</p> <p>7 THE COURT: Okay. We are on the record</p> <p>8 for Day 4. Let's knock out appearances right quick.</p> <p>9 For Carter, Mr. Gilliam.</p> <p>10 MR. GILLIAM: Matthew Gilliam for</p> <p>11 Plaintiff Charlene Carter, along with Matt Hill, and</p> <p>12 Bobby Pryor will be returning shortly.</p> <p>13 THE COURT: Understood.</p> <p>14 Okay. And for Southwest.</p> <p>15 MR. McKEEBY: Paulo McKeeby with Brian</p> <p>16 Morris.</p> <p>17 THE COURT: Okay. Thank you.</p> <p>18 And then how about for the Union.</p> <p>19 MR. GREENFIELD: Adam Greenfield and</p> <p>20 Edward Cloutman III, and Mr. Mike Masoni just walked</p> <p>21 in.</p> <p>22 THE COURT: Very good. Thank you.</p> <p>23 And full disclosure, I walked in at the</p> <p>24 same time as Mr. Greenfield, asked him how his son</p> <p>25 was doing, got an update. We didn't talk about</p>
<p style="text-align: right;">Page 904</p> <p>1 anything else.</p> <p>2 If anyone wants to voir dire me, I'm happy</p> <p>3 to sit for questions. I will go swear myself in and</p> <p>4 sit over there.</p> <p>5 But any time I say more than two or three</p> <p>6 words to y'all, I will self-disclose and tell</p> <p>7 everyone anything that happened. Fair enough?</p> <p>8 Okay. So the first item of business is</p> <p>9 Brett Nevarez. I understand we don't have him here</p> <p>10 but we have a phone number. I don't know if anyone</p> <p>11 knows his temperature on willingness to sit for a</p> <p>12 depo or testify remotely for trial.</p> <p>13 Does anyone know anything about Nevarez</p> <p>14 other than we have a phone number?</p> <p>15 MR. GREENFIELD: I spoke with him.</p> <p>16 I don't know is the answer to the question</p> <p>17 after speaking with him.</p> <p>18 THE COURT: Sure. Understood.</p> <p>19 What I thought I would do is tell him,</p> <p>20 Look, I had a show cause hearing for you. I</p> <p>21 understand you are not here. I have had multiple</p> <p>22 court orders for you to sit for a depo.</p> <p>23 I can compel you to sit for a depo. I</p> <p>24 can't be the one to compel you to travel here, but I</p> <p>25 will drop everything if you want to do the depo or</p>	<p style="text-align: right;">Page 905</p> <p>1 testify remotely for trial.</p> <p>2 What I don't know is, on those options,</p> <p>3 the trial option could be, Hey, the jury is here at</p> <p>4 9. Will you go live at 9 and pause Schneider or</p> <p>5 will you go right after Schneider?</p> <p>6 I don't know, of the available trial</p> <p>7 options, what y'all think. So can you illuminate my</p> <p>8 thinking on the trial versus depo, and if trial, is</p> <p>9 it pausing Schneider, going now, or is it waiting to</p> <p>10 complete Schneider, or is it another option at some</p> <p>11 other time?</p> <p>12 So what are y'all thinking on Nevarez and</p> <p>13 the choose-your-own adventure?</p> <p>14 MR. HILL: So we would like to -- we're</p> <p>15 sort of being presented with this for the first</p> <p>16 time. We would like to discuss it amongst counsel</p> <p>17 to try and reach a conclusion.</p> <p>18 MR. PRYOR: We can discuss it. But we</p> <p>19 have talked about our additional time. We would</p> <p>20 prefer a deposition of him so we can determine what</p> <p>21 to use.</p> <p>22 It would be more efficient for us to have</p> <p>23 a deposition than have him live at trial, but if</p> <p>24 live at trial is the only option, I guess we will</p> <p>25 take that option.</p>

<p style="text-align: right;">Page 906</p> <p>1 THE COURT: Well, what I can do, so now 2 it's almost like I'm an FBI hostage negotiator, but 3 what I can do is say, Look, if you will sit for a 4 depo tonight, then I will drop the whole thing as a 5 judge. I won't refer a sanctions motion. 6 MR. PRYOR: That's very generous of you, 7 your Honor. Again, he's ignored three subpoenas 8 that we spent a lot of money serving on him. 9 THE COURT: Yeah. Well -- 10 MR. PRYOR: But it's a tradeoff. We'll 11 take it. 12 THE COURT: I should say, I will drop my 13 attempt to punish him myself. You know, that's 14 separate and apart from if you seek monetary 15 sanctions from him. 16 MR. PRYOR: Okay. 17 THE COURT: But I guess I should choose my 18 words carefully. 19 So I won't throw him in jail for punitive 20 contempt for violating multiple court orders. Does 21 that make sense? 22 I care more about getting someone's 23 testimony than punishing one. So if I can get it 24 eventually, that is my goal. 25 Okay. So how about I give a pause right</p>	<p style="text-align: right;">Page 907</p> <p>1 quick, make sure y'all are all comfortable with 2 that. I'm going to put on the white noise. You can 3 talk amongst yourselves if that's a preferred course 4 of action I will pitch tonight. Because I think 5 sooner is better than later with anyone who has 6 shown an inability to comply. 7 (Discussion off the record.) 8 THE COURT: Okay. Back on the record. 9 MR. PRYOR: Your Honor, we really 10 appreciate this opportunity. We were really 11 dreading the weekend. So tonight would be awesome 12 for that deposition. 13 THE COURT: Okay. So I will pitch 14 tonight. Is there a start time that you are going 15 to propose? 16 MR. HILL: 8:00 Central. 17 THE COURT: 8 p.m. Central. Okay. That 18 is 7 p.m. his time? 19 MR. HILL: Yes. 20 MR. McKEEBY: Is there a limitation? 21 THE COURT: So I have limited it to an 22 hour and a half. So I would keep that limit. 23 MR. GREENFIELD: Your Honor, being 24 hopeful, if we are able to set this deposition for 25 tonight, can we extend the briefing deadline that's</p>
<p style="text-align: right;">Page 908</p> <p>1 due at 9 p.m.? Because I was really going to need 2 time this evening to complete that. 3 THE COURT: Yes. So that's for the 4 question on protected conduct, question of law, if 5 so or if not, how do you -- 6 MR. GREENFIELD: Yes, your Honor. 7 THE COURT: Yes. So how about we push 8 that 24 hours? 9 MR. GREENFIELD: That would be wonderful. 10 Thank you. 11 THE COURT: Got it. 12 Okay. So any other thoughts before we 13 call Mr. Nevarez? So we are not seeking his live 14 testimony, we are seeking for him to sit for an hour 15 and a half depo at 8 p.m. Central, 7 p.m. New Mexico 16 time tonight. 17 Mr. Frye, can we try to dial up 18 Mr. Nevarez? 19 I will tell you while we are dialing him 20 up, sometimes he can hear me better than we all can 21 hear him. If that happens, our break glass in case 22 of emergency is I'm going to say, We're going to 23 call you back from a different line. 24 Then I will ask one lawyer from each side 25 to come with me into my conference room where it is</p>	<p style="text-align: right;">Page 909</p> <p>1 just a normal speakerphone on the conference table. 2 Does that make sense? 3 So if we have trouble hearing him and 4 can't really communicate effectively, then I will 5 just say we are calling him back, and y'all think 6 who you want to send. 7 Hello. Is this Mr. Nevarez? 8 MR. NEVAREZ: Yes. 9 THE COURT: Okay. Very good. Sorry, 10 Mr. Nevarez. This is Judge Brantley Starr in 11 Dallas, Texas. We have you on speakerphone in a 12 courtroom, and so sometimes that can be difficult 13 for you to hear us or us to hear you. I just want 14 make sure that you can hear us all right. 15 MR. NEVAREZ: Very well. 16 You are going to turn up volume on the 17 speakerphone? 18 THE COURT: Okay. What we are going to 19 do, we are going to call you from a different line. 20 So give us two minutes, and then we will call you 21 from a different phone line. 22 THE WITNESS: Okay. 23 THE COURT: Thank you, sir. 24 Okay. That is our cue. Whoever the 25 designee is, come on back with me.</p>

<p style="text-align: right;">Page 910</p> <p>1 (Recess.)</p> <p>2 (In chambers.)</p> <p>3 SHOW CAUSE HEARING</p> <p>4 THE COURT: Hello.</p> <p>5 Mr. Nevarez, it is Brantley Starr again.</p> <p>6 MR. NEVAREZ: Oh, yeah.</p> <p>7 THE COURT: Is that better?</p> <p>8 MR. NEVAREZ: It is very clear. Now I can</p> <p>9 hear you.</p> <p>10 THE COURT: Very good.</p> <p>11 So we are my conference I have a lawyer</p> <p>12 for each of the parties and in this lawsuit with me</p> <p>13 so everyone is listening in to it and we are on the</p> <p>14 record. We record everything we do in our court</p> <p>15 proceedings.</p> <p>16 So, Mr. Nevarez, as you probably know by</p> <p>17 now, I set a show cause hearing for your failure to</p> <p>18 comply with my orders to sit for a deposition.</p> <p>19 I need to ask you, have you got a copy of</p> <p>20 that order I entered yesterday saying that we need</p> <p>21 to visit today at 8:30?</p> <p>22 MR. NEVAREZ: Yes.</p> <p>23 THE COURT: Okay. What I am going to tell</p> <p>24 you is I have the power to ask a judge in New Mexico</p> <p>25 to send the marshals out to get you in handcuffs to</p>	<p style="text-align: right;">Page 911</p> <p>1 sit for a deposition, but I don't like using that.</p> <p>2 MR. NEVAREZ: Right.</p> <p>3 THE COURT: My goal get you to talk at a</p> <p>4 deposition so that we can use that for a trial.</p> <p>5 Does that make sense?</p> <p>6 So while I have the power to do that or</p> <p>7 the power to seek punitive contempt to sit you in</p> <p>8 jail some period of time for your failure to follow</p> <p>9 court orders, I'm more concerned with just hearing</p> <p>10 what you have to say at a deposition.</p> <p>11 MR. NEVAREZ: Okay.</p> <p>12 THE COURT: My request is this. I will</p> <p>13 not seek any punitive contempt, any jail time; I</p> <p>14 will not seek the marshals come out and get you, if</p> <p>15 you can commit to me that you will sit for a video</p> <p>16 deposition tonight at 7:00, your time, that is</p> <p>17 limited to an hour and a half.</p> <p>18 Would you be amenable to that?</p> <p>19 MR. NEVAREZ: Yes. Reluctantly.</p> <p>20 THE COURT: Understood. And I don't think</p> <p>21 anyone has ever wanted to sit for a deposition in</p> <p>22 their life. So I get your reluctance, generally.</p> <p>23 I'm sure you have specific as well.</p> <p>24 What I will do, then, is I will hold off</p> <p>25 on referring this matter to judge in Las Cruces, so</p>
<p style="text-align: right;">Page 912</p> <p>1 the marshals don't come out after you.</p> <p>2 What I want to do is to say that I'm going</p> <p>3 to ask the lawyers, before we start on trial this</p> <p>4 morning, get the jury in here, if they could send</p> <p>5 you an email with instructions for how to log on</p> <p>6 tonight at 7:00, your time; 8:00, our time, to sit</p> <p>7 for a video deposition.</p> <p>8 You will just need to make sure you have a</p> <p>9 web cam and a microphone. And then the flat form</p> <p>10 they there use Zoom or some other platform, any</p> <p>11 exhibits that they need to put in front of you will</p> <p>12 be visible on that platform. So you don't need</p> <p>13 anything other than a computer with a webcam and</p> <p>14 microphone.</p> <p>15 Does that make sense?</p> <p>16 MR. NEVAREZ: Yes.</p> <p>17 THE COURT: Any other questions that the</p> <p>18 lawyers have that they want to ask me?</p> <p>19 MR. PRYOR: We need the email address.</p> <p>20 THE COURT: Mr. Nevarez, what email</p> <p>21 address can you give us?</p> <p>22 MR. NEVAREZ: Nevinc@msn.com.</p> <p>23 Nancy, Edward, Victor, I-N-C@msn.com.</p> <p>24 MR. PRYOR: It looks like the judge got</p> <p>25 it. I couldn't understand it.</p>	<p style="text-align: right;">Page 913</p> <p>1 THE COURT: Nevinc@msn.com?</p> <p>2 MR. NEVAREZ: Correct.</p> <p>3 THE COURT: Very good.</p> <p>4 Other questions?</p> <p>5 MR. PRYOR: Your phone number?</p> <p>6 MR. NEVAREZ: (575)496-6784.</p> <p>7 MR. PRYOR: Sir, you do have a computer</p> <p>8 with a webcam?</p> <p>9 MR. NEVAREZ: Yes.</p> <p>10 MR. PRYOR: Thank you.</p> <p>11 THE COURT: All right.</p> <p>12 Any other questions?</p> <p>13 Okay. So I will stand down.</p> <p>14 MR. NEVAREZ: Are you asking me or the</p> <p>15 lawyers?</p> <p>16 THE COURT: That is a great question, Mr.</p> <p>17 Nevarez.</p> <p>18 So I was asking the lawyers here.</p> <p>19 Mr. Nevarez, do you have any other</p> <p>20 questions?</p> <p>21 MR. NEVAREZ: Yes. I want to know why I</p> <p>22 wasn't deposed when I was in office. This has been</p> <p>23 going five years. They have had opportunity in</p> <p>24 2017, 2018, and discovery has been closed.</p> <p>25 I don't understand why depositions are</p>

<p style="text-align: right;">Page 914</p> <p>1 required.</p> <p>2 THE COURT: Well, I understand that.</p> <p>3 MR. NEVAREZ: This is toward the end of</p> <p>4 it.</p> <p>5 THE COURT: I understand that. I have</p> <p>6 looked another enough to limit your depo. I would</p> <p>7 normally depositions are allowed to go six hours.</p> <p>8 Because of the circumstances you have just</p> <p>9 said, I'm saying that this maxes out at an hour and</p> <p>10 a half, does that make sense.</p> <p>11 MR. NEVAREZ: Ninety minutes.</p> <p>12 THE COURT: Yes. That's correct.</p> <p>13 MR. NEVAREZ: Okay. And why is it allowed</p> <p>14 during the trial when they have had discovery for</p> <p>15 five years?</p> <p>16 THE COURT: The jury has a fact-finding</p> <p>17 duty and they would like to hear from you because</p> <p>18 your name has come up a lot during this trial.</p> <p>19 MR. NEVAREZ: This was the jury's idea,</p> <p>20 not --</p> <p>21 THE COURT: So my job is to listen for the</p> <p>22 jury, right? I'm not slanted for one party or</p> <p>23 another. But the jury is entitled to hear the</p> <p>24 evidence. There are several depositions. You are</p> <p>25 not the only one, Mr. Nevarez. There are several</p>	<p style="text-align: right;">Page 915</p> <p>1 depositions of short duration that I have allowed in</p> <p>2 the runup to trial.</p> <p>3 This is not the only trial I have done. I</p> <p>4 have it done it probably, half the trials I have</p> <p>5 had, at the late-breaking stage, everyone realizes</p> <p>6 there is testimony that the jury should probably</p> <p>7 hear from. So it is unfortunately a common</p> <p>8 occurrence.</p> <p>9 And you are not the only one in this trial</p> <p>10 it is happening, but I am limiting it to one fourth</p> <p>11 of the time normally allowed.</p> <p>12 MR. PRYOR: Can I make an additional</p> <p>13 comment given the questions?</p> <p>14 THE COURT: You may.</p> <p>15 MR. PRYOR: Mr. Nevarez, this is Bobby</p> <p>16 Pryor, I'm counsel for Ms. Carter.</p> <p>17 The judge has told you, it is a 90-minute</p> <p>18 deposition. And then judge will of course correct</p> <p>19 me it I'm wrong, just so you understand, that means</p> <p>20 90 minutes on the record, that doesn't include</p> <p>21 breaks.</p> <p>22 No. 2, it doesn't include if you are</p> <p>23 stalling or trying to delay and run out the clock on</p> <p>24 a deposition.</p> <p>25 Otherwise certainly that limitation</p>
<p style="text-align: right;">Page 916</p> <p>1 applies, and we will follow it.</p> <p>2 THE COURT: That's correct.</p> <p>3 So if you sit there and think for 27</p> <p>4 minutes about an answer, then that 27 minutes</p> <p>5 doesn't really count. If you think for 10 seconds,</p> <p>6 then we will keep the clock on 10 seconds.</p> <p>7 Any other questions?</p> <p>8 MR. NEVAREZ: No.</p> <p>9 THE COURT: All right. Thank you, Mr.</p> <p>10 Nevarez. I know this isn't pleasant or easy. I</p> <p>11 appreciate your willingness to help out. I will</p> <p>12 stand down for now on the assurances that you will</p> <p>13 be at 7 p.m. on the platform of they send you over</p> <p>14 email in the next few minutes.</p> <p>15 So that concludes the show cause hearing.</p> <p>16 And I will just see what happens from</p> <p>17 tonight's deposition.</p> <p>18 Thank you everyone.</p> <p>19 Court is in recess.</p> <p>20 (Recess.)</p> <p>21 THE COURT SECURITY OFFICER: All rise.</p> <p>22 THE COURT: Okay. Anything before we get</p> <p>23 the jury?</p> <p>24 MR. McKEEBY: I do have one thing I would</p> <p>25 like to raise, your Honor.</p>	<p style="text-align: right;">Page 917</p> <p>1 THE COURT: Go for it.</p> <p>2 MR. McKEEBY: I would like to re-urge the</p> <p>3 objection that I've been making with regard to</p> <p>4 questions that contemplate witnesses asking whether</p> <p>5 something is protected union activity. I have been</p> <p>6 objecting on the basis of it being a legal</p> <p>7 conclusion and I think that is an accurate and fair</p> <p>8 objection, but I also think it's a problem of</p> <p>9 vagueness as well in the sense that --</p> <p>10 THE COURT: I'm right there with you.</p> <p>11 So I think that if someone has dealt with</p> <p>12 it, it is not a valid legal conclusion objection,</p> <p>13 but do we know what we mean by protected activity?</p> <p>14 So I will ask you -- when you split it</p> <p>15 apart later on, religion, union speech, I think that</p> <p>16 helped clarify.</p> <p>17 Are we talking about the same thing?</p> <p>18 MR. McKEEBY: Not exactly, I don't think.</p> <p>19 I think it should be more than that. When you say</p> <p>20 "union-protected activity," does that mean protected</p> <p>21 activity under the Railway Labor Act, protected</p> <p>22 activity under some other law, protected activity</p> <p>23 under Southwest policies, or protected because it</p> <p>24 is, you know -- and, in fact, it is not always</p> <p>25 union-protected activity, sometimes it's</p>

<p style="text-align: right;">Page 918</p> <p>1 union-related activity.</p> <p>2 Does that mean it's related because of the</p> <p>3 law, does that mean it's related because</p> <p>4 conceptually or factually there is some connection</p> <p>5 with the conduct or the message and the union?</p> <p>6 The problem is that the witnesses don't</p> <p>7 understand because the question is not clear, in</p> <p>8 addition to calling for a legal conclusion, and it</p> <p>9 is extremely prejudicial because it is going to</p> <p>10 track language presumably in the -- in the charge.</p> <p>11 And I think that that is something we need</p> <p>12 to raise or we can discuss on Monday.</p> <p>13 But the charge needs to be super clear.</p> <p>14 Hey, I'm telling you what is protected activity, not</p> <p>15 the witnesses. And we can discuss that on Monday.</p> <p>16 But the problem with these witnesses is</p> <p>17 they don't know what they are answering because the</p> <p>18 question is ambiguous and it needs more context.</p> <p>19 Because I can tell you, if the witnesses</p> <p>20 are asked, Is that protected conduct under the</p> <p>21 Railway Labor Act, they are going to say, I don't</p> <p>22 know what you are talking about.</p> <p>23 And that is what the question is designed</p> <p>24 to evoke, I think. So I think the question is</p> <p>25 ambiguous, vague, in addition to calling for a legal</p>	<p style="text-align: right;">Page 919</p> <p>1 conclusion, and that is -- I wanted to re-urge that</p> <p>2 this morning.</p> <p>3 THE COURT: So I get your point.</p> <p>4 I wouldn't make him go so granular as to</p> <p>5 start saying "protected union activity under the</p> <p>6 Railway Labor Act," right? At some point it is so</p> <p>7 granular that we will spend all our time clarifying.</p> <p>8 I would appreciate if you could get their</p> <p>9 definition, what's their understanding of what's</p> <p>10 protected, or if they don't have one, like Schneider</p> <p>11 didn't at first, then you go and start breaking it</p> <p>12 up, right? Was this religious? Was this union?</p> <p>13 And I know you will still have an</p> <p>14 objection of that being too vague, but I think at</p> <p>15 some point, if they haven't given you a definition</p> <p>16 of protected, then you need to define it in some way</p> <p>17 for them and then ask him if it is that.</p> <p>18 Does that make sense?</p> <p>19 MR. PRYOR: I hear what you are saying,</p> <p>20 your Honor.</p> <p>21 This is the decision-maker. This is the</p> <p>22 person that should have known these things, taken</p> <p>23 them into account.</p> <p>24 And they can redirect and try and</p> <p>25 rehabilitate; but for me to have to tell him what it</p>
<p style="text-align: right;">Page 920</p> <p>1 is, he should already know. And I should be able to</p> <p>2 ask it in any variety of manner.</p> <p>3 And to define for him under RLA what he</p> <p>4 should already know, no, I object to having to do</p> <p>5 that.</p> <p>6 THE COURT: So I think you have already</p> <p>7 granulated it in religion and union with him, and</p> <p>8 you actually got traction.</p> <p>9 So, I mean, if he asks a question of</p> <p>10 another witness that is the broad protected activity</p> <p>11 and we don't have a foundation, raise the objection</p> <p>12 and I will rule on it then, and we will do the</p> <p>13 choose your own adventure.</p> <p>14 So I take your point and I think your</p> <p>15 point is valid. We will see it come up with future</p> <p>16 witnesses and figure out what we do with it then.</p> <p>17 MR. PRYOR: Thank you, your Honor.</p> <p>18 THE COURT: All right. And exhibits, I</p> <p>19 know what I'm going to do on all the exhibit</p> <p>20 objections, but if you want a sidebar when you are</p> <p>21 raising your objection, just ask for one. Otherwise</p> <p>22 I will rule on it here and we won't have a sidebar.</p> <p>23 All right.</p> <p>24 THE COURT SECURITY OFFICER: All rise for</p> <p>25 the jury.</p>	<p style="text-align: right;">Page 921</p> <p>1 (The jurors entered the courtroom.)</p> <p>2 THE COURT: Thank you. You can be seated.</p> <p>3 Okay. We can bring Mr. Schneider back in.</p> <p>4 MR. PRYOR: Your Honor, I feel my time</p> <p>5 ticking away.</p> <p>6 THE COURT: He's walking quickly. You're</p> <p>7 good.</p> <p>8 Welcome back, Mr. Schneider. You can come</p> <p>9 on and approach that witness box.</p> <p>10 (The witness entered the courtroom.)</p> <p>11 THE COURT: We already gave you the oath</p> <p>12 yesterday. I don't need to give it to you again</p> <p>13 today. I did ask you yesterday if you would give me</p> <p>14 the courtesy of not talking to anyone about the</p> <p>15 case.</p> <p>16 THE WITNESS: You did.</p> <p>17 THE COURT: So can you tell me, did you</p> <p>18 talk to anyone about the case?</p> <p>19 THE WITNESS: I did not.</p> <p>20 THE COURT: Okay. Thank you for</p> <p>21 complying.</p> <p>22 And Mr. Pryor, you can continue your</p> <p>23 questions. I will just remind y'all, keep some</p> <p>24 space between questions and answers, answers and</p> <p>25 questions.</p>

<p style="text-align: right;">Page 922</p> <p>1 DIRECT EXAMINATION - CONTINUED</p> <p>2 BY MR. PRYOR:</p> <p>3 Q. Mr. Schneider, who did you talk to about your</p> <p>4 testimony yesterday?</p> <p>5 A. Nobody.</p> <p>6 Q. What does that RLA mean to you?</p> <p>7 A. Railway Labor Act.</p> <p>8 Q. What does that mean in terms of how you did</p> <p>9 your job in regard to the investigation of the</p> <p>10 claims against Ms. Carter?</p> <p>11 A. To do a full investigation and give the --</p> <p>12 Q. I'm going to apologize to you, and I'm going to</p> <p>13 correct this, hopefully in the next hour.</p> <p>14 I don't have my hearing aids on. I noticed it</p> <p>15 this morning whenever the judge first started</p> <p>16 speaking. So you are going to have talk into that</p> <p>17 microphone for me.</p> <p>18 THE COURT: Can you repeat that question?</p> <p>19 MR. PRYOR: Yes.</p> <p>20 BY MR. PRYOR:</p> <p>21 Q. I've forgotten the question, so I may have to</p> <p>22 ask a different one. But if you will just speak</p> <p>23 into the microphone, I will appreciate it.</p> <p>24 A. Okay.</p> <p>25 Q. So what does "Railway Labor Act" mean to you in</p>	<p style="text-align: right;">Page 923</p> <p>1 connection with your investigation of claims against</p> <p>2 Ms. Carter? Into the microphone.</p> <p>3 MR. McKEEBY: Objection.</p> <p>4 THE COURT: I will allow it.</p> <p>5 THE WITNESS: I don't know an answer for</p> <p>6 that question. I don't know what you mean.</p> <p>7 BY MR. PRYOR:</p> <p>8 Q. You'll have to say it a little bit louder for</p> <p>9 me.</p> <p>10 A. I don't know what you mean.</p> <p>11 Q. Okay. Well, I asked you what RLA meant, and</p> <p>12 you told me Railway Labor Act.</p> <p>13 Maybe I should -- let me ask a foundational</p> <p>14 question.</p> <p>15 Did anything about your understanding of RLA</p> <p>16 come into play in regard to your investigation of</p> <p>17 the claims against Ms. Carter?</p> <p>18 A. What I know about the RLA is that airlines and</p> <p>19 transportation fall under that guidance, I guess, to</p> <p>20 some extent, and we are held to that.</p> <p>21 But beyond that, I don't know it thoroughly</p> <p>22 enough to be able to answer that question.</p> <p>23 Q. Therefore, given that that is your</p> <p>24 understanding of the RLA, it didn't come into play</p> <p>25 at all in regard to your investigation of</p>
<p style="text-align: right;">Page 924</p> <p>1 Ms. Carter, true?</p> <p>2 A. Not specifically.</p> <p>3 Q. Well, how generally, then, sir?</p> <p>4 A. Only, like I said, that we are held -- that's</p> <p>5 what an overseeing entity -- it's over the airlines</p> <p>6 and transportation in general. And we abide by some</p> <p>7 of those guidelines on there. Specifically how they</p> <p>8 pertain to this case is what I'm saying I can't</p> <p>9 answer that exactly.</p> <p>10 Q. Okay. Great.</p> <p>11 Tell us the guidelines that came into play in</p> <p>12 your investigation of Ms. Carter.</p> <p>13 A. That we give Ms. Carter due process and I</p> <p>14 conduct a thorough investigation into the</p> <p>15 allegations.</p> <p>16 Q. Anything else?</p> <p>17 A. No.</p> <p>18 Q. Anything about, if she's engaged in union</p> <p>19 activity, that it's protected?</p> <p>20 A. I don't know anything about union protected.</p> <p>21 Q. You don't know anything about protected union</p> <p>22 activity under the RLA; that's not part of what you</p> <p>23 understand of the RLA?</p> <p>24 A. I'm just saying that I don't know what that</p> <p>25 means as far as protected speech or activity.</p>	<p style="text-align: right;">Page 925</p> <p>1 Q. All right. I get it. You don't know what</p> <p>2 protected speech is or what protected union activity</p> <p>3 is, true?</p> <p>4 MR. McKEEBY: Objection, asked and</p> <p>5 answered.</p> <p>6 THE COURT: I will allow it this last</p> <p>7 time.</p> <p>8 THE WITNESS: I don't know.</p> <p>9 BY MR. PRYOR:</p> <p>10 Q. You don't know if you don't know, or you don't</p> <p>11 know what protected speech, protected union activity</p> <p>12 is?</p> <p>13 A. I don't know what protected speech, protected</p> <p>14 union activity would be. I'm for the company, and</p> <p>15 as far as the Union goes, that's under their realm.</p> <p>16 Q. Okay. Did you seek any advice of counsel or</p> <p>17 anyone in regard to that issue before terminating</p> <p>18 Ms. Carter?</p> <p>19 A. What issue are you talking about specifically?</p> <p>20 Q. The issue of whether or not there were</p> <p>21 protections she was entitled to under the RLA that</p> <p>22 you were not providing.</p> <p>23 MR. McKEEBY: Objection, calls for</p> <p>24 attorney-client privilege.</p> <p>25 THE COURT: No, I don't think this one</p>

<p style="text-align: right;">Page 926</p> <p>1 does. He can answer.</p> <p>2 THE WITNESS: I do not know that, if it</p> <p>3 was -- I did not specifically --</p> <p>4 BY MR. PRYOR:</p> <p>5 Q. You don't know what you asked?</p> <p>6 A. I did not specifically ask somebody about the</p> <p>7 Railway Labor Act.</p> <p>8 Q. But did you say you didn't specifically ask?</p> <p>9 Is that what you said?</p> <p>10 A. I did not ask anybody about the RLA.</p> <p>11 Q. You didn't ask at all.</p> <p>12 I just want to make sure there wasn't a</p> <p>13 general --</p> <p>14 THE COURT: Separation between questions</p> <p>15 and answers. You're talking over each other.</p> <p>16 MR. PRYOR: I apologize, your Honor.</p> <p>17 BY MR. PRYOR:</p> <p>18 Q. What does an 18-month look-back mean to you?</p> <p>19 A. It means that we can look back in an employee's</p> <p>20 record for 18 months to see any prior information</p> <p>21 from that that may pertain to the case.</p> <p>22 Q. And do you -- is that the guideline or rule</p> <p>23 that you follow when looking at complaints?</p> <p>24 A. That is one of the requirements, that we can</p> <p>25 only go back 18 months.</p>	<p style="text-align: right;">Page 927</p> <p>1 Q. Okay. You know you went back more than 18</p> <p>2 months in regard to Ms. Carter, though, don't you?</p> <p>3 A. How so?</p> <p>4 Q. I'm sorry?</p> <p>5 A. How so?</p> <p>6 Q. You don't know, do you?</p> <p>7 Did you go back more than 18 months in order to</p> <p>8 terminate Ms. Carter?</p> <p>9 A. I'm not sure what you are asking as far as 18</p> <p>10 months for what? Into what area?</p> <p>11 Q. Let's try it this way: Did you look at any</p> <p>12 information that you relied upon to terminate</p> <p>13 Ms. Carter that was older than 18 months? The</p> <p>14 limit. You just said it was the requirement.</p> <p>15 A. There is information that was given to me that</p> <p>16 was more than 18 months, but I didn't consider</p> <p>17 anything more than 18 months.</p> <p>18 Q. Are you sure of that?</p> <p>19 A. In my decision?</p> <p>20 Q. No. Are you sure that you did not -- yes.</p> <p>21 Are you sure you did not consider as part of</p> <p>22 your decision to terminate Ms. Carter information</p> <p>23 more than 18 months old that you specifically relied</p> <p>24 upon?</p> <p>25 A. I did not rely upon anything more than 18</p>
<p style="text-align: right;">Page 928</p> <p>1 months prior to that that was pertinent to the</p> <p>2 investigation.</p> <p>3 Q. Did you rely upon information from her Facebook</p> <p>4 page to provide a nexus in order to say there was a</p> <p>5 social media policy violation?</p> <p>6 A. Social media? It possibly could have gone back</p> <p>7 more than 18 months. I don't know the -- I don't</p> <p>8 remember the specific dates.</p> <p>9 Q. I thought you said 18 months was -- required</p> <p>10 that -- you didn't say it was a guideline, you said</p> <p>11 that was the requirement. You can't go back more</p> <p>12 than 18 months.</p> <p>13 And, in fact, you did try and create a nexus</p> <p>14 between Ms. Carter's Facebook and Southwest</p> <p>15 Airlines, true?</p> <p>16 A. In my understanding, the 18 months goes to play</p> <p>17 for any past discipline or anything in the file.</p> <p>18 Q. So wait. So before, I gave you every</p> <p>19 opportunity to explain it. You said you can't go</p> <p>20 back more than 18 months to look at anything, and</p> <p>21 now you are telling us, No, no, it is limited to</p> <p>22 discipline.</p> <p>23 MR. McKEEBY: Objection, misstates</p> <p>24 testimony. Argumentative.</p> <p>25 MR. PRYOR: I'm happy to read it.</p>	<p style="text-align: right;">Page 929</p> <p>1 THE COURT: Well, let's do that.</p> <p>2 Do you want to go back?</p> <p>3 MR. PRYOR: I'm sorry?</p> <p>4 THE COURT: You offered to read it. I</p> <p>5 think there is a question on whether you are</p> <p>6 accurately stating.</p> <p>7 MR. PRYOR: It was two questions ago,</p> <p>8 maybe three.</p> <p>9 BY MR. PRYOR:</p> <p>10 Q. Sir, what is the 18-month requirement?</p> <p>11 A. We can't consider anything in their file more</p> <p>12 than 18 months.</p> <p>13 Q. Anything in their file. That wouldn't include</p> <p>14 the Facebook posts that you gathered and put into</p> <p>15 her file?</p> <p>16 A. No.</p> <p>17 Q. So you can go back forever?</p> <p>18 A. In certain -- when we are looking at Facebook</p> <p>19 and we are looking at nexus to the workplace, it is</p> <p>20 not the same thing.</p> <p>21 Q. You were the person that decided to terminate</p> <p>22 Charlene Carter, according to Southwest Airlines.</p> <p>23 A. Yes.</p> <p>24 Q. Southwest Airlines gave you that</p> <p>25 responsibility?</p>

<p style="text-align: right;">Page 930</p> <p>1 A. Is that a question?</p> <p>2 Q. Did anyone at Southwest Airlines tell you that</p> <p>3 if it involves union activity that is not on the job</p> <p>4 and it is not illegal, that you shouldn't take</p> <p>5 action against them?</p> <p>6 A. No.</p> <p>7 Q. As you sit here today, has anyone ever told you</p> <p>8 that?</p> <p>9 A. They have told me that I cannot consider</p> <p>10 anything in their file past 18 months.</p> <p>11 Q. I'm not asking about the 18 months now, sir,</p> <p>12 but thank you for volunteering that.</p> <p>13 So you were told that you shouldn't have gone</p> <p>14 back more than 18 months in the Facebook page, true?</p> <p>15 A. No.</p> <p>16 Q. Well, what did you just mean when you said</p> <p>17 you -- since she was terminated, you've been told</p> <p>18 you can't go back more than 18 months?</p> <p>19 A. On anything in the file, the employee's file.</p> <p>20 Q. That is what you already told us.</p> <p>21 So why would they be telling that again after</p> <p>22 Ms. Carter was terminated?</p> <p>23 A. I don't know what you mean on that.</p> <p>24 Q. Who is "they," by the way?</p> <p>25 A. That's the company and Southwest Airlines.</p>	<p style="text-align: right;">Page 931</p> <p>1 Q. Could you put a name on it for us?</p> <p>2 A. Well, labor relations oversees that.</p> <p>3 Q. So that is not really a name either. When I</p> <p>4 mean a name, I mean a human being.</p> <p>5 A. In this particular case, I talked to Maureen</p> <p>6 Emlet.</p> <p>7 Q. Ms. Emlet.</p> <p>8 Who else?</p> <p>9 A. About this issue or in general?</p> <p>10 Q. About this issue. This issue after you</p> <p>11 terminated Ms. Carter to tell you that -- did anyone</p> <p>12 tell you that if it is union activity and it is not</p> <p>13 on the job, that you shouldn't be taking action</p> <p>14 unless the activity is illegal?</p> <p>15 A. No one told me that.</p> <p>16 Q. But Ms. Emlet told you what about the 18</p> <p>17 months?</p> <p>18 A. No. You asked me who I referred to, and I said</p> <p>19 labor relations, and specifically Maureen Emlet.</p> <p>20 Q. When I asked you if you'd spoken to someone</p> <p>21 after Ms. Carter was terminated about this issue,</p> <p>22 and you said yes, someone has spoken to you about</p> <p>23 this union activity issue, did I misunderstand?</p> <p>24 MR. McKEEBY: Objection, vague.</p> <p>25 THE COURT: I will allow it.</p>
<p style="text-align: right;">Page 932</p> <p>1 THE WITNESS: I didn't speak to anybody</p> <p>2 after the termination.</p> <p>3 BY MR. PRYOR:</p> <p>4 Q. Was Ms. Carter on the job when she sent her</p> <p>5 communications to Ms. Stone?</p> <p>6 A. She was an active flight attendant for</p> <p>7 Southwest Airlines.</p> <p>8 Q. Did you understand my question?</p> <p>9 A. No.</p> <p>10 Q. Okay. Do you promise not to be evasive today?</p> <p>11 A. I'm sorry? I didn't think I was being evasive.</p> <p>12 Q. Did Ms. Carter -- we've got Southwest Airlines</p> <p>13 employees here today. If one of them is sitting in</p> <p>14 the -- if they are off work today sitting in the</p> <p>15 gallery, are they on the job?</p> <p>16 A. No.</p> <p>17 Q. Okay. Then I will ask you again, was</p> <p>18 Ms. Carter on the job when she sent the</p> <p>19 communications that she sent to Ms. Stone?</p> <p>20 A. I'm not aware of where she was when she sent</p> <p>21 those.</p> <p>22 Q. It didn't matter to you, did it?</p> <p>23 A. No. It didn't.</p> <p>24 Q. Okay. So you are not even aware if she was on</p> <p>25 the job or not?</p>	<p style="text-align: right;">Page 933</p> <p>1 MR. McKEEBY: Objection, asked and</p> <p>2 answered.</p> <p>3 THE COURT: Sustained.</p> <p>4 MR. PRYOR: Make sure, given his previous</p> <p>5 answer.</p> <p>6 MR. McKEEBY: Objection, asked and</p> <p>7 answered.</p> <p>8 THE COURT: Sustained.</p> <p>9 The first one is clear.</p> <p>10 MR. PRYOR: Okay.</p> <p>11 BY MR. PRYOR:</p> <p>12 Q. So you knew that she either was on the job or</p> <p>13 wasn't and didn't ask, is that fair?</p> <p>14 MR. McKEEBY: Objection, asked and</p> <p>15 answered.</p> <p>16 THE COURT: Sustained.</p> <p>17 MR. PRYOR: I can't summarize his</p> <p>18 testimony?</p> <p>19 THE COURT: Not on something as discrete</p> <p>20 as that when the answer is clear. Save that for</p> <p>21 closing argument.</p> <p>22 MR. PRYOR: Okay.</p> <p>23 BY MR. PRYOR:</p> <p>24 Q. Do you know if Ms. Stone was on the job at the</p> <p>25 time that she received the communication?</p>

<p style="text-align: right;">Page 934</p> <p>1 A. From what I recall with her discussion, yes.</p> <p>2 Q. What makes you think she was on the job at the</p> <p>3 time she received it?</p> <p>4 A. There was a statement made that she received it</p> <p>5 as she walked down the jetway to the aircraft and it</p> <p>6 affected her.</p> <p>7 Q. Do you know what she was actually doing?</p> <p>8 A. No, sir.</p> <p>9 Q. So you don't know that she was on the job, do</p> <p>10 you?</p> <p>11 A. Not specifically. I know that she was going to</p> <p>12 the aircraft.</p> <p>13 Q. She was actually traveling on union business,</p> <p>14 but you don't know that, do you?</p> <p>15 A. No, I do not.</p> <p>16 Q. So you don't know if she was on the job or not,</p> <p>17 true?</p> <p>18 A. No.</p> <p>19 Q. True? That would take a yes if it's true.</p> <p>20 A. Yes, that is true.</p> <p>21 Q. Okay. If an employee -- I'm going to give you</p> <p>22 a hypothetical, okay?</p> <p>23 If at any time you are misunderstanding what</p> <p>24 I'm saying, feel free to raise your hand.</p> <p>25 A. Okay.</p>	<p style="text-align: right;">Page 935</p> <p>1 Q. An employee of Southwest Airlines emails you</p> <p>2 and tells you, Hey, you know what, I want to use the</p> <p>3 social media policy to target two people that might</p> <p>4 be opponents of the upcoming elections for the</p> <p>5 union, and I want to support the current union</p> <p>6 membership, and I want to use the social media</p> <p>7 policy to get them fired.</p> <p>8 Okay. You got the example so far?</p> <p>9 A. Vaguely, yes.</p> <p>10 Q. Okay.</p> <p>11 You are sitting at your computer, you open up</p> <p>12 that email. What do you do?</p> <p>13 MR. McKEEBY: Objection, vague. What</p> <p>14 email?</p> <p>15 THE COURT: I will allow it.</p> <p>16 THE WITNESS: The email was sent to me, is</p> <p>17 that what you are saying?</p> <p>18 BY MR. PRYOR:</p> <p>19 Q. That was the hypothetical, sir. That was the</p> <p>20 whole point. I even said you opened it up sitting</p> <p>21 at your desk. You didn't understand that?</p> <p>22 A. Okay. So I would possibly reach out to them</p> <p>23 and have a discussion about what their intent was.</p> <p>24 Q. So you would possibly reach out. So you might</p> <p>25 not even do that.</p>
<p style="text-align: right;">Page 936</p> <p>1 A. I would have to get details, or if it was more</p> <p>2 information in the email.</p> <p>3 Q. So if you got more details that verified</p> <p>4 exactly what I just told you, that this employee is</p> <p>5 wanting to target for assassination, termination,</p> <p>6 two other employees using the social media policy,</p> <p>7 all you would do is possibly reach out, true?</p> <p>8 MR. McKEEBY: Objection, vague and --</p> <p>9 vague.</p> <p>10 THE COURT: I will allow it.</p> <p>11 THE WITNESS: I'm not sure what you mean</p> <p>12 when you say "assassination or termination." Is it</p> <p>13 both or --</p> <p>14 BY MR. PRYOR:</p> <p>15 Q. You don't know what -- target for assassination</p> <p>16 in this context means get them fired.</p> <p>17 A. I'm sorry. I didn't understand that.</p> <p>18 Q. You what?</p> <p>19 A. I didn't understand that.</p> <p>20 Q. Okay. I have now told you.</p> <p>21 So you still, knowing all of that, would only</p> <p>22 possibly reach out to the employee, true?</p> <p>23 A. If that were the case specifically, I would</p> <p>24 reach out to the employee, yes, and possibly</p> <p>25 employee relations.</p>	<p style="text-align: right;">Page 937</p> <p>1 Q. I'm having a little trouble with the word</p> <p>2 "possibly."</p> <p>3 So you've got an employee that threatens to</p> <p>4 target for assassination, which I will agree means</p> <p>5 terminate another employee, for invalid grounds</p> <p>6 using social media policy, and you would only</p> <p>7 possibly report it to employee relations?</p> <p>8 MR. McKEEBY: Objection, calls for</p> <p>9 speculation.</p> <p>10 And moreover, if it means termination,</p> <p>11 let's use the word "termination" instead of</p> <p>12 "assassination."</p> <p>13 THE COURT: I will allow the question.</p> <p>14 THE WITNESS: It would depend on the</p> <p>15 information I find out. That's why I said possibly.</p> <p>16 I would talk to the person first, find out</p> <p>17 specifically. Emails can be misread.</p> <p>18 BY MR. PRYOR:</p> <p>19 Q. Sure.</p> <p>20 A. So I would find out details. And that's why I</p> <p>21 mean possibly reach out to employee relations.</p> <p>22 Q. Let me tell you that the employee, when you</p> <p>23 call him or her, verifies 100 percent that, yes, I'm</p> <p>24 going to try and use social media policy to fire</p> <p>25 some people that really there is no basis for firing</p>

<p style="text-align: right;">Page 938</p> <p>1 them. And they tell you that. They verify what is 2 in the email. 3 Now what do you do? 4 A. I would have a discussion with them and try to 5 dissuade them from doing so, and let them know the 6 ramifications of doing something like that. 7 Q. But that's all you would do, right? You 8 wouldn't report a target assassination threat like 9 that to employee relations, right? 10 MR. McKEEBY: Objection, 11 mischaracterization. Also speculation. 12 MR. PRYOR: I'm entitled to get a little 13 sarcastic with the witness. 14 THE COURT: I will allow the question. 15 THE WITNESS: I would if it indicated the 16 need to do so. 17 BY MR. PRYOR: 18 Q. Okay. I'm sorry, you would if they didn't back 19 off what they told you, is that what you said? 20 A. If I didn't come to some reconciliation, yes. 21 Q. So if you weren't able to talk them out of it, 22 you would report them to employee relations, true? 23 A. Yes. 24 Q. By the way, let's assume that you did talk them 25 out of it. You then would not report it to employee</p>	<p style="text-align: right;">Page 939</p> <p>1 relations? 2 A. Once again, it would depend on the statements 3 they made and what was indicated to me. 4 Q. I just told you every single statement they 5 made. 6 Now, with those facts, if you called the 7 employee, and the employee says -- finds out you're 8 upset about it and says, Oh, I changed my mind, you 9 would not report that to employee relations, true? 10 A. I can't say that within 100 percent. I mean, 11 it would -- it would depend on what was -- 12 Q. Say within 99 percent then. 13 MR. McKEEBY: Objection -- 14 THE WITNESS: I don't know. 15 THE COURT: Sustained. 16 BY MR. PRYOR: 17 Q. 98 percent? 18 MR. McKEEBY: Objection, asked and 19 answered. 20 THE COURT: Sustained. 21 BY MR. PRYOR: 22 Q. In February of 2017, at the same time you 23 received Charlene Carter, the complaint regarding 24 Charlene Carter, did anyone make you aware that 25 other members of the Union were reporting other</p>
<p style="text-align: right;">Page 940</p> <p>1 members of the Union supporting a recall for 2 violations of the social media policy? 3 A. I found that out during the investigation. 4 Q. What did you find out during the investigation 5 about that? 6 A. There was a statement written, I'm pretty sure 7 it was by Ms. Carter, that there is a vote, and 8 people are voting to oust the Union leadership. 9 Q. That's all you learned? 10 A. Yes. 11 Q. Did you look into that? 12 A. No. 13 Q. Did you ever speak to Sonya Lacore about it? 14 A. No. 15 Q. Sonya Lacore was notified of Ms. Stone's 16 complaint at the time Ms. Stone made the complaint, 17 true? 18 A. Say that once again. 19 Q. Sonya Lacore was notified of the complaint made 20 by Ms. Stone against Ms. Carter at the time it was 21 made in February of 2017? 22 MR. GREENFIELD: Objection, your Honor, 23 lack of foundation, and because of that it calls for 24 speculation. 25 THE COURT: Sustained.</p>	<p style="text-align: right;">Page 941</p> <p>1 Can you back up? 2 BY MR. PRYOR: 3 Q. Do you recall the complaint that Ms. Stone 4 filed? 5 A. Yes. 6 Q. Do you know who was included on that complaint, 7 among others, Sonya Lacore? 8 A. I don't recall today. 9 Q. Well, I'm going to go ahead and let you assume 10 that Sonya Lacore was notified on that complaint. I 11 will show it to you in a little while, okay? 12 You got what you are assuming? 13 A. Yes. 14 Q. And if Ms. Lacore was aware of information that 15 in fact, at this same time she was aware that an 16 employee in the Union supporting Ms. Stone was 17 reporting people, actually the very same day, for 18 violations of social media policy, would you expect 19 her to have told you that? 20 MR. GREENFIELD: Objection, your Honor, 21 still lack of foundation. If he would like the 22 witness to assume something, he can -- 23 THE COURT: Hold on. That is a speaking 24 objection. You can ask for a sidebar if you need 25 it.</p>

<p style="text-align: right;">Page 942</p> <p>1 I will overrule that.</p> <p>2 You can answer.</p> <p>3 THE WITNESS: I don't know.</p> <p>4 BY MR. PRYOR:</p> <p>5 Q. You wouldn't want to know that, would you?</p> <p>6 That would be information you wouldn't want as part</p> <p>7 of your fair and impartial investigation, right?</p> <p>8 A. I don't understand the question.</p> <p>9 Q. Do you not understand what "fair and impartial"</p> <p>10 is? What did you miss?</p> <p>11 A. The entire question.</p> <p>12 Q. Really.</p> <p>13 So you would not want to know that, in fact,</p> <p>14 the Union, with the knowledge of Ms. Stone, who is</p> <p>15 making the complaint on February 22, 2017, were also</p> <p>16 bringing social media policy violations against</p> <p>17 other recall supporters like Ms. Carter, you</p> <p>18 wouldn't want to know that, would you?</p> <p>19 MR. McKEEBY: Objection, vague,</p> <p>20 foundation.</p> <p>21 THE COURT: I will allow it.</p> <p>22 THE WITNESS: That was not part of my</p> <p>23 investigation on the information I received on</p> <p>24 Ms. Carter.</p> <p>25</p>	<p style="text-align: right;">Page 943</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. You wouldn't want to know that, right? You</p> <p>3 don't think that's relevant, right?</p> <p>4 A. If it was relevant, I would want to know it,</p> <p>5 yes.</p> <p>6 Q. How would you know if it is relevant if</p> <p>7 somebody doesn't tell you about it?</p> <p>8 A. If somebody doesn't tell me about it, then I</p> <p>9 wouldn't know about it.</p> <p>10 Q. Okay. So let's go back to my question.</p> <p>11 If Ms. Lacore was aware of that, would you have</p> <p>12 expected her to have informed you, since she was on</p> <p>13 the complaint?</p> <p>14 A. I would expect Ms. Lacore to take whatever</p> <p>15 action she deems necessary. I can't speculate what</p> <p>16 that would be.</p> <p>17 Q. If she deemed necessary to keep it a secret</p> <p>18 from you, that is okay with you?</p> <p>19 A. She would have to make that decision.</p> <p>20 Q. Sorry?</p> <p>21 A. That would be a decision she would make. I'm</p> <p>22 not sure what you mean by that.</p> <p>23 Q. Well, I'm just saying, if I was -- wouldn't you</p> <p>24 want that type of information to evaluate the</p> <p>25 validity of Ms. Stone's complaints or were you not</p>
<p style="text-align: right;">Page 944</p> <p>1 interested in that?</p> <p>2 A. I would like any information that relates to</p> <p>3 the investigation.</p> <p>4 MR. PRYOR: Let's look at Exhibit 66.</p> <p>5 THE COURT: It is in. You can publish.</p> <p>6 BY MR. PRYOR:</p> <p>7 Q. It will be on the screen in front of you.</p> <p>8 If you ever need a hard copy -- I can provide</p> <p>9 you a hard copy at any time, but I've kind of been</p> <p>10 pulling things in and out of folders. If you need</p> <p>11 it, I think I can get it for you. It should be on</p> <p>12 your screen any minute now.</p> <p>13 Any hour now.</p> <p>14 A. It's a blank screen right now.</p> <p>15 I've got a waterfall.</p> <p>16 Q. Patience is not a virtue I own.</p> <p>17 I'm on the verge of handing you a hard copy.</p> <p>18 MR. McKEEBY: Given that that appears to</p> <p>19 be your reality, what document are we talking about?</p> <p>20 THE COURT: 66.</p> <p>21 MR. PRYOR: There we go.</p> <p>22 BY MR. PRYOR:</p> <p>23 Q. Okay. Here is Exhibit 66.</p> <p>24 And you are not on this email, but it was</p> <p>25 forwarded to you, correct?</p>	<p style="text-align: right;">Page 945</p> <p>1 A. I don't know for sure. I'm not sure what this</p> <p>2 is. I only see the top paragraph.</p> <p>3 Q. You don't recognize this, right? You don't</p> <p>4 recognize her complaint?</p> <p>5 A. I would have to see farther down. I don't -- I</p> <p>6 only see the beginning of it.</p> <p>7 Q. So you need to see the one that was forwarded</p> <p>8 to you, right?</p> <p>9 A. If I remember right, this looks familiar to the</p> <p>10 one that was sent to me.</p> <p>11 Q. When's the last time you reviewed the</p> <p>12 complaint?</p> <p>13 A. Within the past week.</p> <p>14 Q. I'm sorry?</p> <p>15 A. Within the past week.</p> <p>16 Q. When is the last time you reviewed Audrey</p> <p>17 Stone's complaint?</p> <p>18 MR. McKEEBY: Objection, asked and</p> <p>19 answered.</p> <p>20 THE COURT: I will allow this</p> <p>21 clarification.</p> <p>22 THE WITNESS: For a specific day? Friday.</p> <p>23 I mean --</p> <p>24 BY MR. PRYOR:</p> <p>25 Q. This past Friday, true?</p>

<p style="text-align: right;">Page 946</p> <p>1 A. Yes.</p> <p>2 Q. Okay. This past Friday you reviewed it, and</p> <p>3 you can't tell us that you received this document,</p> <p>4 true?</p> <p>5 A. This one wasn't addressed to me.</p> <p>6 Q. You didn't look at this?</p> <p>7 A. I looked at a version of this that was</p> <p>8 forwarded to me.</p> <p>9 Q. That's the point I'm making, sir. This</p> <p>10 document was forwarded to you, true?</p> <p>11 A. There it is, the whole thing. Yes.</p> <p>12 Q. Is that a yes?</p> <p>13 A. This one was sent to me.</p> <p>14 Q. I just need to know if you said yes.</p> <p>15 A. Yes, this one was sent to me.</p> <p>16 Q. Okay. So I appreciate you taking five minutes</p> <p>17 to answer something about a document you looked at</p> <p>18 on Friday.</p> <p>19 MR. McKEEBY: Objection, improper argument</p> <p>20 of counsel.</p> <p>21 THE COURT: Sustained.</p> <p>22 BY MR. PRYOR:</p> <p>23 Q. Now, this is from Audrey Stone, true?</p> <p>24 A. Yes.</p> <p>25 Q. And it's sent to Suzanne Stephenson?</p>	<p style="text-align: right;">Page 947</p> <p>1 A. Yes.</p> <p>2 Q. That's the base manager in Las Vegas?</p> <p>3 A. Yes.</p> <p>4 Q. And it is also sent to Naomi Hudson, someone</p> <p>5 with labor relations and management at Southwest</p> <p>6 Airlines?</p> <p>7 A. Yes.</p> <p>8 Q. And it was sent to Sonya Lacore, and she was --</p> <p>9 I'm not sure of her title, but she was high up in</p> <p>10 in-flight, true?</p> <p>11 A. True.</p> <p>12 Q. Would Sonya Lacore, would you expect her to be</p> <p>13 involved in the investigation?</p> <p>14 A. Not at her level. She would be aware of it,</p> <p>15 but she wouldn't be involved with the investigation.</p> <p>16 Q. So you can't think of a reason why Audrey Stone</p> <p>17 would include Sonya Lacore on here, could you?</p> <p>18 MR. GREENFIELD: Objection, your Honor,</p> <p>19 calls for speculation.</p> <p>20 THE COURT: I will allow him to answer, if</p> <p>21 he has personal knowledge.</p> <p>22 THE WITNESS: I don't know why she sent</p> <p>23 it.</p> <p>24 BY MR. PRYOR:</p> <p>25 Q. Do you have any understanding at all as to why</p>
<p style="text-align: right;">Page 948</p> <p>1 someone senior in in-flight would be included on</p> <p>2 Audrey Stone's complaint sent to her base manager?</p> <p>3 MR. GREENFIELD: Objection, asked and</p> <p>4 answered. And it's lack of foundation, which calls</p> <p>5 for speculation.</p> <p>6 THE COURT: I will sustain on foundation.</p> <p>7 MR. PRYOR: Which was sustained, your</p> <p>8 Honor?</p> <p>9 THE COURT: Foundation.</p> <p>10 BY MR. PRYOR:</p> <p>11 Q. Sir, you received complaints from employees</p> <p>12 about other employees?</p> <p>13 A. Yes.</p> <p>14 Q. You understand the process at Southwest</p> <p>15 Airlines about how that is done?</p> <p>16 A. How what is done?</p> <p>17 Q. How complaints are handled.</p> <p>18 A. Yes.</p> <p>19 Q. And you have been there 28 years, and for at</p> <p>20 least a significant part of that time, you have been</p> <p>21 handling complaints?</p> <p>22 A. Yes.</p> <p>23 Q. And I'm asking you, based on your understanding</p> <p>24 of the process at Southwest Airlines, can you think</p> <p>25 of a reason why it would be necessary to have Sonya</p>	<p style="text-align: right;">Page 949</p> <p>1 Lacore on the complaint?</p> <p>2 MR. GREENFIELD: Objection, again, lack of</p> <p>3 foundation, which calls for speculation.</p> <p>4 And I would be happy to sidebar to flesh</p> <p>5 that out, if you need me to.</p> <p>6 THE COURT: If you want a sidebar, I will</p> <p>7 let you.</p> <p>8 MR. GREENFIELD: I don't think I do.</p> <p>9 THE COURT: So I will overrule on lack of</p> <p>10 foundation. I will allow him to answer based on the</p> <p>11 speculation objection, if he has personal knowledge.</p> <p>12 THE WITNESS: I don't have personal</p> <p>13 knowledge of why it was sent to her.</p> <p>14 BY MR. PRYOR:</p> <p>15 Q. I'm not asking about your personal knowledge,</p> <p>16 I'm asking about your personal knowledge of the</p> <p>17 practices and policies of Southwest Airlines.</p> <p>18 Now, there's your knowledge. Within that</p> <p>19 knowledge, can you think of a reason why Sonya</p> <p>20 Lacore should be on this complaint?</p> <p>21 MR. McKEEBY: Objection, asked and</p> <p>22 answered.</p> <p>23 THE COURT: I will allow it.</p> <p>24 MR. GREENFIELD: Your Honor, I would renew</p> <p>25 my foundation objection. And if -- and it's</p>

<p style="text-align: right;">Page 950</p> <p>1 irrelevant for the purposes of --</p> <p>2 THE COURT: No speaking objections,</p> <p>3 though.</p> <p>4 Sustained on irrelevant.</p> <p>5 MR. PRYOR: Your Honor, I object to the</p> <p>6 continuous objections to try and assist this witness</p> <p>7 in not answering questions.</p> <p>8 THE COURT: I'm overruling the objections.</p> <p>9 You can answer the question.</p> <p>10 THE WITNESS: This was sent by Audrey</p> <p>11 Stone.</p> <p>12 BY MR. PRYOR:</p> <p>13 Q. Um-hmm.</p> <p>14 A. I don't know why she included the people that</p> <p>15 she did in the email.</p> <p>16 Q. That wasn't my question, was it?</p> <p>17 I understand what you want to answer, sir, but</p> <p>18 you are under oath to answer the questions I ask</p> <p>19 you.</p> <p>20 MR. GREENFIELD: Objection, argumentative.</p> <p>21 BY MR. PRYOR:</p> <p>22 Q. Would you answer my question?</p> <p>23 THE COURT: Sustained.</p> <p>24 Ask the question.</p> <p>25</p>	<p style="text-align: right;">Page 951</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. I did. Would you answer it?</p> <p>3 A. You'll have to repeat that. I don't know what</p> <p>4 the question is then.</p> <p>5 Q. Let's do it again. This is another five</p> <p>6 minutes to get a basic fact from you.</p> <p>7 MR. GREENFIELD: Objection, your Honor, to</p> <p>8 the sidebar --</p> <p>9 MR. PRYOR: You've got -- your</p> <p>10 knowledge --</p> <p>11 THE COURT: Sustained.</p> <p>12 Please ask the question.</p> <p>13 BY MR. PRYOR:</p> <p>14 Q. -- your 28 years of knowledge about Southwest</p> <p>15 Airlines's process. Have you got it so far? Your</p> <p>16 knowledge. No one else's, yours.</p> <p>17 A. Yes.</p> <p>18 Q. Within that knowledge, take that vast knowledge</p> <p>19 and tell us any explanation you can come up with for</p> <p>20 why Sonya Lacore has to be on this complaint.</p> <p>21 MR. GREENFIELD: Objection, your Honor, to</p> <p>22 the relevance then.</p> <p>23 THE COURT: I will allow it.</p> <p>24 THE WITNESS: I don't know why she is on</p> <p>25 this email.</p>
<p style="text-align: right;">Page 952</p> <p>1 MR. PRYOR: Object, nonresponsive.</p> <p>2 BY MR. PRYOR:</p> <p>3 Q. Once again, sir, did I ask you why Audrey Stone</p> <p>4 included it on there?</p> <p>5 What is your education?</p> <p>6 A. Generally?</p> <p>7 Q. What is your education, sir?</p> <p>8 A. I have a bachelor's degree in aviation.</p> <p>9 Q. Okay. I'm just trying to see if you understand</p> <p>10 the difference between me asking you what Audrey</p> <p>11 Stone did and what you understand based on your</p> <p>12 knowledge.</p> <p>13 Do you see the difference?</p> <p>14 A. I don't see the difference.</p> <p>15 Q. Okay. So I'm going to try it again, and don't</p> <p>16 tell me, I don't know what Audrey Stone was</p> <p>17 thinking, because I'm not asking you that.</p> <p>18 MR. GREENFIELD: Objection.</p> <p>19 MR. McKEEBY: Objection. He's not --</p> <p>20 THE COURT: Sustained.</p> <p>21 Just ask the question.</p> <p>22 MR. PRYOR: I'm sorry?</p> <p>23 THE COURT: Sustained.</p> <p>24 Ask the question.</p> <p>25</p>	<p style="text-align: right;">Page 953</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. You got your 28 years of experience, and you've</p> <p>3 handled complaints during a lot of that 28 years.</p> <p>4 And tell me, based on your knowledge and</p> <p>5 understanding and belief about Southwest's policies,</p> <p>6 a reason you could come up with, when you saw this,</p> <p>7 on why Sonya Lacore should be on this complaint?</p> <p>8 A. I don't know the answer to that question.</p> <p>9 Q. You can't think of a reason, can you?</p> <p>10 MR. McKEEBY: Objection, asked and</p> <p>11 answered.</p> <p>12 MR. PRYOR: I'm exploring his answer.</p> <p>13 THE COURT: I will allow this one.</p> <p>14 THE WITNESS: Can you repeat the question?</p> <p>15 BY MR. PRYOR:</p> <p>16 Q. You can't think of a reason, can you?</p> <p>17 A. Sonya Lacore is the vice president of in-flight</p> <p>18 who oversees all employees and flight attendants of</p> <p>19 Southwest Airlines. So I don't even know why she</p> <p>20 would be included on that specifically because there</p> <p>21 is more people below her in the chain of command.</p> <p>22 Q. Okay.</p> <p>23 A. So.</p> <p>24 Q. I appreciate you finally getting to the answer.</p> <p>25 You can't think of a reason.</p>

<p style="text-align: right;">Page 954</p> <p>1 But how about the fact that Audrey Stone was</p> <p>2 aware that Sonya Lacore had been talking with people</p> <p>3 at the Union about targeting people for social media</p> <p>4 violations? Would that be a reason?</p> <p>5 MR. McKEEBY: Objection, foundation.</p> <p>6 THE COURT: Sustained.</p> <p>7 BY MR. PRYOR:</p> <p>8 Q. Let's look at: "Dear Suzanne. Below you will</p> <p>9 see Facebook messages that were sent to me last week</p> <p>10 by Southwest Airlines flight attendant Charlene</p> <p>11 Carter. It is in regards to a TWU Local 556 Women's</p> <p>12 Committee Meeting that I participated in last month</p> <p>13 and a march that I voluntarily participated in a few</p> <p>14 days later."</p> <p>15 Did I read that correctly for you?</p> <p>16 A. Yes.</p> <p>17 Q. You know that the complaint involves Charlene</p> <p>18 Carter complaining to her union, right off the bat,</p> <p>19 true?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. So it didn't take days of investigation,</p> <p>22 you knew in the second sentence of the complaint</p> <p>23 that this involved union activity, right?</p> <p>24 That's okay, you already told us. You can say</p> <p>25 it again.</p>	<p style="text-align: right;">Page 955</p> <p>1 A. It says that it involves -- regards TWU Local</p> <p>2 556.</p> <p>3 Q. Sir, you just told us you knew it involved</p> <p>4 union activity. All I have added now is you knew</p> <p>5 right away because it is in the second sentence.</p> <p>6 Are you changing your answer?</p> <p>7 MR. McKEEBY: Objection. He's not</p> <p>8 changing his answer.</p> <p>9 THE COURT: Sustained.</p> <p>10 MR. PRYOR: Your Honor, I did not hear the</p> <p>11 objection. I heard "sustained," but I didn't hear</p> <p>12 the objection.</p> <p>13 MR. McKEEBY: Let me make a formal</p> <p>14 objection.</p> <p>15 Objection, mischaracterizes testimony,</p> <p>16 argumentative.</p> <p>17 THE COURT: I will sustain that.</p> <p>18 BY MR. PRYOR:</p> <p>19 Q. Did you know when you read the second sentence</p> <p>20 of this complaint that it involved Charlene Carter</p> <p>21 engaging in union activity?</p> <p>22 MR. McKEEBY: Objection, asked and</p> <p>23 answered.</p> <p>24 THE COURT: I will allow this.</p> <p>25</p>
<p style="text-align: right;">Page 956</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. You can answer, I think.</p> <p>3 THE COURT: Yes.</p> <p>4 THE WITNESS: Yes. The ---</p> <p>5 BY MR. PRYOR:</p> <p>6 Q. And then, even more so, she goes on to say, "Up</p> <p>7 until December, I chaired RTW committee, which works</p> <p>8 with TWU international to collectively help build</p> <p>9 future women leaders and address women issues."</p> <p>10 Again, talking about that union activity, true?</p> <p>11 MR. McKEEBY: Again, your Honor, object as</p> <p>12 vague for the reasons discussed.</p> <p>13 THE COURT: I will allow this. I will</p> <p>14 allow it. You can answer.</p> <p>15 MR. PRYOR: I object to the constant</p> <p>16 objection. There is nothing vague. I read what the</p> <p>17 agreement says.</p> <p>18 THE COURT: I can't control him any more</p> <p>19 than I can control you, and everyone has been very</p> <p>20 active today.</p> <p>21 Can you answer the question or do you need</p> <p>22 him to repeat it?</p> <p>23 THE WITNESS: No, I can answer.</p> <p>24 THE COURT: Okay. Thank you.</p> <p>25 THE WITNESS: It does state details about</p>	<p style="text-align: right;">Page 957</p> <p>1 the union, yes.</p> <p>2 BY MR. PRYOR:</p> <p>3 Q. Details about union activity, true?</p> <p>4 Did you want to leave out the word "activity"</p> <p>5 for a reason?</p> <p>6 A. No.</p> <p>7 Q. Why did you leave it out of your answer?</p> <p>8 You repeated my question but you left that word</p> <p>9 out, as opposed to answering it directly.</p> <p>10 MR. McKEEBY: Objection, argumentative.</p> <p>11 THE COURT: I will allow it.</p> <p>12 THE WITNESS: I was just trying to be</p> <p>13 brief in my explanation.</p> <p>14 BY MR. PRYOR:</p> <p>15 Q. Then why did you leave it out?</p> <p>16 Instead of just saying yes, you repeated my</p> <p>17 question and left out a word, "activity."</p> <p>18 And that was just an accident, okay? Right?</p> <p>19 MR. McKEEBY: Objection. This is legal</p> <p>20 argument or some kind of argument.</p> <p>21 THE COURT: I will allow it.</p> <p>22 THE WITNESS: It was not intentional.</p> <p>23 BY MR. PRYOR:</p> <p>24 Q. Okay. Then let's try it again.</p> <p>25 You knew, in reading this sentence, that it</p>

<p style="text-align: right;">Page 958</p> <p>1 involved union activity, the complaint, true?</p> <p>2 A. Yes.</p> <p>3 Q. It says, "The messages contain two graphic</p> <p>4 videos of an alleged aborted fetus and make</p> <p>5 references to murder as well as political and</p> <p>6 religious comments."</p> <p>7 Is it correct to say that you knew by the time</p> <p>8 you read the second paragraph that this complaint</p> <p>9 involved political speech and religious activity.</p> <p>10 True?</p> <p>11 A. I don't know about the activity. It says</p> <p>12 "religious comments."</p> <p>13 Q. So you don't think "religious comments"</p> <p>14 involves religious activity?</p> <p>15 A. I'm just being specific is all. Because you</p> <p>16 asked me about activity last time. I'm just trying</p> <p>17 to be clear.</p> <p>18 Q. I'm asking you to interpret what you read.</p> <p>19 Did you believe it involved religious activity</p> <p>20 and political activity, given she's telling you it</p> <p>21 is involving political and religious comments?</p> <p>22 MR. McKEEBY: Object to -- object to the</p> <p>23 characterization of what the document says.</p> <p>24 THE COURT: I will sustain that.</p> <p>25</p>	<p style="text-align: right;">Page 959</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. Do political and religious comments involve</p> <p>3 activity? Or can you have comments without</p> <p>4 activity?</p> <p>5 MR. McKEEBY: Objection, vague.</p> <p>6 THE COURT: I will allow it.</p> <p>7 THE WITNESS: I would take it for what it</p> <p>8 says, that it was political and religious comments.</p> <p>9 BY MR. PRYOR:</p> <p>10 Q. Okay. So when it says comments, can you think</p> <p>11 of any way to make a political comment or a</p> <p>12 religious comment without that falling within the</p> <p>13 definition -- you have got a college degree --</p> <p>14 within the definition of "activity"?</p> <p>15 MR. GREENFIELD: Objection, relevance.</p> <p>16 THE COURT: I will allow it.</p> <p>17 THE WITNESS: Emails, like I said before,</p> <p>18 can be misrepresented. So I would take for what it</p> <p>19 says specifically, religious comments.</p> <p>20 MR. PRYOR: Object to the responsiveness.</p> <p>21 BY MR. PRYOR:</p> <p>22 Q. That it not the question I asked.</p> <p>23 A. I'm missing the question then. I'm sorry.</p> <p>24 Q. I'm asking you to close your eyes to this</p> <p>25 document, all you want.</p>
<p style="text-align: right;">Page 960</p> <p>1 The question is: Tell us, is there any way to</p> <p>2 interpret the phrase "political and religious</p> <p>3 comments" in a way that it would not involve</p> <p>4 activity?</p> <p>5 MR. McKEEBY: Objection, vague.</p> <p>6 BY MR. GILLIAM:</p> <p>7 Q. In a vacuum. Forget this complaint.</p> <p>8 Any example in the entire world that you come</p> <p>9 up with. I can't wait to hear it.</p> <p>10 THE COURT: I will allow.</p> <p>11 THE WITNESS: I wouldn't relate the two.</p> <p>12 I would take I can what it says.</p> <p>13 BY MR. GILLIAM:</p> <p>14 Q. Of course, you wouldn't be able to; it involves</p> <p>15 activity, true?</p> <p>16 MR. McKEEBY: Objection, argumentative.</p> <p>17 Asked and answered.</p> <p>18 BY MR. PRYOR:</p> <p>19 Q. Go ahead.</p> <p>20 A. It involves comments.</p> <p>21 THE COURT: Hold on. What is your second</p> <p>22 objection?</p> <p>23 MR. PRYOR: I don't remember.</p> <p>24 THE COURT: I think asked and answered, is</p> <p>25 what you said?</p>	<p style="text-align: right;">Page 961</p> <p>1 MR. McKEEBY: I think asked and answerer,</p> <p>2 but there was another. That is the one I don't</p> <p>3 remember.</p> <p>4 THE COURT: I will sustain on asked and</p> <p>5 answered.</p> <p>6 MR. McKEEBY: Thank you.</p> <p>7 THE COURT: Not on vague.</p> <p>8 MR. PRYOR: What it is sustained on?</p> <p>9 THE COURT: Asked and answered.</p> <p>10 MR. PRYOR: Did the Court have to come up</p> <p>11 with the objection? I mean, I'm fine either way.</p> <p>12 THE COURT: The realtime is down. He said</p> <p>13 it, but you were talking over him. So I thought he</p> <p>14 said asked and answered.</p> <p>15 MR. PRYOR: I'm sorry, your Honor.</p> <p>16 BY MR. PRYOR:</p> <p>17 Q. All right. Then it says, "I found the messages</p> <p>18 to be incredibly disturbing and believe it to be a</p> <p>19 violation of social media policy."</p> <p>20 Do you see that?</p> <p>21 A. No. It is below the screen.</p> <p>22 There.</p> <p>23 Q. Hang on.</p> <p>24 Do you see it now?</p> <p>25 A. Yes, I do.</p>

<p style="text-align: right;">Page 962</p> <p>1 MR. PRYOR: Okay.</p> <p>2 THE STENOGRAPHER: I have to restart.</p> <p>3 THE COURT: Hold on. We are going to have</p> <p>4 to restart the writer.</p> <p>5 MR. PRYOR: Let's look at 19.</p> <p>6 THE COURT: We can't. We have to restart</p> <p>7 the writer. Can we take a quick break while we</p> <p>8 restart? I'm sorry to do our morning break early</p> <p>9 twice, but we got to do it reboot.</p> <p>10 Same instructions as always. Only talk to</p> <p>11 your fellow jurors and court personnel, don't talk</p> <p>12 to anyone about the case, and don't do any research</p> <p>13 about the case.</p> <p>14 We will see you in 10 minutes at 10:00.</p> <p>15 THE COURT SECURITY OFFICER: All rise for</p> <p>16 the jury.</p> <p>17 (The jurors exited the courtroom.)</p> <p>18 THE COURT: And same for you, you can</p> <p>19 leave the box but you can't talk to anyone about the</p> <p>20 case, Mr. Schneider.</p> <p>21 Any questions? Issues that anyone wants</p> <p>22 to talk about?</p> <p>23 We are off the record.</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 963</p> <p>1 (Recess.)</p> <p>2 THE COURT SECURITY OFFICER: All rise.</p> <p>3 THE COURT: Okay. Anything else?</p> <p>4 All right. Let's get the jury.</p> <p>5 I will say, we may try to do lunch on the</p> <p>6 early side, not do another break but do lunch sort</p> <p>7 of in the 11:30 to 11:45 range, if that makes sense.</p> <p>8 I try to not stay on the record for more</p> <p>9 than -- I mean, two hours is pushing it. I try to</p> <p>10 do less than that. Does that make sense?</p> <p>11 So whoever has got the mic at that time,</p> <p>12 think through 11:30 to 11:45 as a break time.</p> <p>13 MR. PRYOR: I can't stand up that long.</p> <p>14 That's great.</p> <p>15 (The jurors entered the courtroom.)</p> <p>16 MR. PRYOR: I wish that was a joke.</p> <p>17 THE COURT: Okay. You can be seated.</p> <p>18 Mr. Pryor, you can continue. We are back</p> <p>19 on the record. Thanks for bearing with us.</p> <p>20 BY MR. PRYOR:</p> <p>21 Q. Mr. Schneider, when you do an investigation, is</p> <p>22 evaluating the credibility of witnesses part of what</p> <p>23 you do?</p> <p>24 A. No, not specifically their credibility. You</p> <p>25 mean as far as their standing with the company, or</p>
<p style="text-align: right;">Page 964</p> <p>1 what part of that? I don't quite understand.</p> <p>2 Q. You don't consider credibility?</p> <p>3 A. Can you explain what you mean by "credibility."</p> <p>4 Q. No.</p> <p>5 A. Okay.</p> <p>6 Q. You don't know what credibility means?</p> <p>7 A. Well, my understanding of credibility is their</p> <p>8 standing in the company. Is that what you are -- or</p> <p>9 their overall in life?</p> <p>10 Q. Sir, when you interview a witness, do you</p> <p>11 consider whether or not they are telling you the</p> <p>12 truth or telling you a lie?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. Let's go with that definition of</p> <p>15 credibility, okay? Do you do that?</p> <p>16 A. Do I do that? What is that?</p> <p>17 Q. When you are doing an investigation and you are</p> <p>18 interviewing a witness, do you consider their</p> <p>19 credibility?</p> <p>20 A. I do consider the fact whether they are telling</p> <p>21 the truth.</p> <p>22 Q. What about if they are telling a lie, do you</p> <p>23 consider that?</p> <p>24 A. Yes. Truth or lies.</p> <p>25 Q. Okay. But that is not what you view as</p>	<p style="text-align: right;">Page 965</p> <p>1 credibility. I just want to make sure we don't use</p> <p>2 the wrong term.</p> <p>3 A. If that's the definition for "credibility" you</p> <p>4 want to use, then yes, I can use that.</p> <p>5 Q. I'm not giving you a definition of</p> <p>6 "credibility," sir. You have already given us one.</p> <p>7 I'm just making sure that you don't consider</p> <p>8 the credibility of witnesses the way you defined the</p> <p>9 word "credibility." True?</p> <p>10 MR. McKEEBY: Objection, asked and</p> <p>11 answered.</p> <p>12 THE COURT: Sustained.</p> <p>13 BY MR. PRYOR:</p> <p>14 Q. Let's look at Exhibit 19.</p> <p>15 Have you ever seen this document before?</p> <p>16 A. I don't recall this document.</p> <p>17 Q. I will represent to you this is a President's</p> <p>18 Message written and authored by Audrey Stone.</p> <p>19 You know who that is, right?</p> <p>20 A. Yes.</p> <p>21 Q. Let's go to the next page.</p> <p>22 She says, among other things, "In regard to the</p> <p>23 social media policy, we have witnessed</p> <p>24 inconsistencies around the way the policy is applied</p> <p>25 and the often subjective stance that Southwest</p>

<p style="text-align: right;">Page 966</p> <p>1 management has displayed in administering the</p> <p>2 policy."</p> <p>3 I'm going to skip down to the last paragraph on</p> <p>4 that page.</p> <p>5 It says, "On a personal note, however, please</p> <p>6 know that the social media issues management</p> <p>7 investigated, and the resulting discipline Southwest</p> <p>8 Airlines issues did not arise out of something</p> <p>9 management simply uncovered or stumbled upon. They</p> <p>10 are not generally monitoring our sites.</p> <p>11 "Instead, these cases come about as our own</p> <p>12 flight attendants are turning each other in. These</p> <p>13 latest investigations have been the result of flight</p> <p>14 attendant complaints.</p> <p>15 "I am asking that we please consider stopping</p> <p>16 any back-and-forth fighting on social media. We are</p> <p>17 not always going to agree with one another, but</p> <p>18 please recognize that your fellow employees are</p> <p>19 entitled to their own thoughts and opinions. If we</p> <p>20 have a problem, let's work it out as the</p> <p>21 professionals that we are. Please respect one</p> <p>22 another."</p> <p>23 Would that be consistent with Ms. Stone filing</p> <p>24 a complaint against another flight attendant using</p> <p>25 the social media policy?</p>	<p style="text-align: right;">Page 967</p> <p>1 A. Are you asking me if that is what she did, or</p> <p>2 is this --</p> <p>3 Q. No, I'm asking you to evaluate. You now have</p> <p>4 two pieces of evidence. You are an investigator.</p> <p>5 Tell us, is that consistent?</p> <p>6 A. She's asking employees to be nice to each other</p> <p>7 and considerate.</p> <p>8 Q. I'm not asking you -- we all know what it said,</p> <p>9 sir, and you obviously misstated what it said.</p> <p>10 I'm asking you a question. Is this document</p> <p>11 consistent with filing a complaint against another</p> <p>12 flight attendant under the social media policy?</p> <p>13 You are the investigator. Are those things</p> <p>14 consistent?</p> <p>15 MR. GREENFIELD: Your Honor --</p> <p>16 MR. McKEEBY: Objection, argumentative,</p> <p>17 vague.</p> <p>18 THE COURT: Hold on.</p> <p>19 MR. GREENFIELD: And argumentative, and</p> <p>20 objection to the sidebars as well, your Honor.</p> <p>21 THE COURT: You've got to do one at a</p> <p>22 time.</p> <p>23 So please restate your objection.</p> <p>24 MR. McKEEBY: Objection, argumentative,</p> <p>25 vague.</p>
<p style="text-align: right;">Page 968</p> <p>1 MR. GREENFIELD: Argumentative, and the</p> <p>2 sidebars within his commentary.</p> <p>3 THE COURT: I will sustain on the sidebar.</p> <p>4 Can you reask it?</p> <p>5 MR. PRYOR: Sustain on who?</p> <p>6 THE COURT: You had sidebar commentary in</p> <p>7 your question. Can you go ahead and reask a plain</p> <p>8 question.</p> <p>9 MR. PRYOR: Can I just say ignore the</p> <p>10 sidebar? It's hard for me not to sidebar.</p> <p>11 Okay. I will do better.</p> <p>12 BY MR. PRYOR:</p> <p>13 Q. Sir, here comes the question.</p> <p>14 Exhibit 19, which I just read to you where</p> <p>15 Ms. Stone -- you know what we read. And you know</p> <p>16 that she has then filed a complaint against another</p> <p>17 flight attendant under the social media policy.</p> <p>18 Are those things consistent with one another or</p> <p>19 inconsistent?</p> <p>20 A. I don't know the exact message she was trying</p> <p>21 to portray in her memo here, but I would say the</p> <p>22 egregiousness of a flight attendant turning</p> <p>23 something in on social media would have something to</p> <p>24 do with it. I'm not sure that's what she was</p> <p>25 referring to in her memo, though.</p>	<p style="text-align: right;">Page 969</p> <p>1 Q. So I didn't hear the answer. Is it consistent</p> <p>2 or inconsistent?</p> <p>3 A. I cannot say that.</p> <p>4 Q. Okay. Would you have -- in determining</p> <p>5 credibility or truthfulness or falseness of a</p> <p>6 witness during your investigation, would you have</p> <p>7 considered this information if it had been given to</p> <p>8 you?</p> <p>9 A. No.</p> <p>10 Q. Why not?</p> <p>11 A. It wasn't part of my investigation of what was</p> <p>12 the crux of the investigation.</p> <p>13 Q. So you would not have considered evidence that</p> <p>14 would have shown that a key witness was being</p> <p>15 inconsistent, true?</p> <p>16 MR. McKEEBY: Objection --</p> <p>17 MR. GREENFIELD: Objection,</p> <p>18 mischaracterizes.</p> <p>19 THE COURT: Sustained.</p> <p>20 BY MR. PRYOR:</p> <p>21 Q. Would you have considered evidence that would</p> <p>22 indicate one of the witnesses you are talking to</p> <p>23 might not be telling you the whole truth?</p> <p>24 A. If I had information that proved that, that</p> <p>25 would be good to have, yes.</p>

<p style="text-align: right;">Page 970</p> <p>1 Q. Okay.</p> <p>2 A. I'm not saying this does, though.</p> <p>3 Q. As a matter of fact, you are saying this does</p> <p>4 not, true?</p> <p>5 A. I'm saying that I don't know what her point was</p> <p>6 for sure that she was making here, and that the</p> <p>7 information that was given to me about social media</p> <p>8 and what was posted were probably not the same</p> <p>9 thing.</p> <p>10 Q. When she says, "Don't report each other for</p> <p>11 social media violations," that's ambiguous to you?</p> <p>12 A. Does it specifically say that?</p> <p>13 MR. McKEEBY: Objection, mischaracterizes</p> <p>14 the --</p> <p>15 MR. PRYOR: Well, I can read it again.</p> <p>16 THE COURT: I will allow it.</p> <p>17 BY MR. PRYOR:</p> <p>18 Q. You don't think it says that?</p> <p>19 THE COURT: I will allow the question.</p> <p>20 I'm overruling the objection.</p> <p>21 MR. PRYOR: I'm rephrasing the question</p> <p>22 now. I don't remember what it was.</p> <p>23 THE COURT: Sure. You can ask it again.</p> <p>24 MR. PRYOR: You were apparently</p> <p>25 considering an objection. I didn't hear --</p>	<p style="text-align: right;">Page 971</p> <p>1 THE COURT: I overruled the objection.</p> <p>2 But at this point, I don't know that he</p> <p>3 knows the question.</p> <p>4 So you can ask the old question --</p> <p>5 MR. PRYOR: Since either one of us know</p> <p>6 the question --</p> <p>7 THE COURT: -- or a new question. It is</p> <p>8 up to you.</p> <p>9 BY MR. PRYOR:</p> <p>10 Q. It says in Exhibit 19, "I'm asking that we</p> <p>11 please consider stopping any back-and-forth fighting</p> <p>12 over social media."</p> <p>13 And she before that has said, "What's happening</p> <p>14 is flight attendants are reporting each other."</p> <p>15 And then she's saying, "Let's be professional.</p> <p>16 Let's respect each other's opinions."</p> <p>17 And that's not -- you don't interpret that as</p> <p>18 her saying, Let's not report things under the social</p> <p>19 media policy. That thing is a mess. You don't see</p> <p>20 it that way?</p> <p>21 A. No.</p> <p>22 Q. You do not?</p> <p>23 A. I do not.</p> <p>24 Q. And how do you see it?</p> <p>25 A. My interpretation is that she's talking about</p>
<p style="text-align: right;">Page 972</p> <p>1 the back and forth on social media.</p> <p>2 Q. Exactly.</p> <p>3 What was this? What was this complaint?</p> <p>4 A. This was turning in somebody for posting</p> <p>5 something and sending specific Facebook messages to</p> <p>6 her.</p> <p>7 Q. Wait. What is the difference?</p> <p>8 A. My interpretation is that she's talking about</p> <p>9 on social media itself where people comment back and</p> <p>10 forth.</p> <p>11 Q. Okay.</p> <p>12 A. And they're possibly not being nice about it.</p> <p>13 Q. Okay. How is that not this?</p> <p>14 A. Because this is something that she turned in</p> <p>15 that somebody posted directly to her on a private</p> <p>16 message.</p> <p>17 Q. That's your answer?</p> <p>18 A. Yes.</p> <p>19 Q. That's your distinction?</p> <p>20 A. Yes.</p> <p>21 Q. Okay.</p> <p>22 A. I'm saying that I can't say what she's</p> <p>23 portraying here exactly, if it is the same thing, to</p> <p>24 warrant if she was being honest or not.</p> <p>25 Q. Let's look back at Exhibit -- let me ask you</p>	<p style="text-align: right;">Page 973</p> <p>1 something I asked earlier. I want to clarify and</p> <p>2 make sure I understood your answer.</p> <p>3 When I asked you, were you aware that people in</p> <p>4 the Union were reporting other people in the Union</p> <p>5 for social media policy targeting recall petition</p> <p>6 supporters at the same time as Ms. Stone brought</p> <p>7 this complaint against Ms. Carter, you were not</p> <p>8 aware of that?</p> <p>9 A. That was a long question, but I think I got the</p> <p>10 gist of it. No.</p> <p>11 Q. And if you had been aware of it, you would have</p> <p>12 considered that in your evaluation of the witnesses</p> <p>13 and the evidence, true?</p> <p>14 A. I can't say that.</p> <p>15 Q. Well, so you have got Ms. Stone -- you knew, by</p> <p>16 the way, that Ms. Carter was a recall supporter?</p> <p>17 A. A recall supporter? Of the --</p> <p>18 Q. Yes.</p> <p>19 A. Yes. She gave me that information in the</p> <p>20 meeting.</p> <p>21 Q. So you knew that Ms. Carter was a recall</p> <p>22 supporter, and a social media complaint was being</p> <p>23 brought against her by the president of the Union.</p> <p>24 You knew that much, right?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 974</p> <p>1 Q. Would it have been important to know that, in 2 fact, the Union also had a member bringing charges 3 against other recall supporters for violations of 4 social media policy? 5 MR. McKEEBY: Objection, calls for -- 6 BY MR. PRYOR: 7 Q. Would you have wanted to know that in order to 8 determine credibility? 9 MR. McKEEBY: Objection, foundation, calls 10 for speculation. 11 THE COURT: I will sustain on foundation. 12 BY MR. PRYOR: 13 Q. Would you have wanted to know -- 14 MR. PRYOR: I'm trying to understand the 15 foundation issue, so I'm trying to create the 16 foundation. 17 BY MR. PRYOR: 18 Q. Would you have wanted to know that information 19 if there was this big conspiracy going on to target 20 recall petitioners using social media policy? 21 MR. McKEEBY: Same objection as to 22 vagueness. 23 THE COURT: I will sustain on foundation. 24 You've got to back up and set the 25 foundation first and then ask it. I don't think</p>	<p style="text-align: right;">Page 975</p> <p>1 this is a topic we have covered yet enough to 2 warrant the question. 3 BY MR. PRYOR: 4 Q. I wish I understand and I wish I had heard you, 5 so I'm going to try anyway. 6 Sir, you understand Audrey Stone was bringing a 7 social media policy violation against a fellow union 8 member or objector and using social media policy 9 when you received a copy of Exhibit 66, Ms. Stone's 10 complaint, true? 11 A. Yes. 12 Q. And if at that same time you became aware that, 13 in fact, that same union leadership that Ms. Stone 14 was involved with were bringing charges against 15 other recall petition supporters for social media 16 policy and that this was a plan, would you have 17 wanted to know that? 18 A. That was not part of my investigation, and that 19 is not something that pertained to what I was 20 investigating. 21 Q. So you would not have wanted to know that, 22 true? 23 A. True. 24 Q. Were you aware of that? 25 MR. McKEEBY: Objection, asked and</p>
<p style="text-align: right;">Page 976</p> <p>1 answered, I think. 2 THE COURT: I will allow it. 3 THE WITNESS: Was I aware of what? The 4 fact that -- I don't understand the question. 5 BY MR. PRYOR: 6 Q. Were you aware that charges were being filed 7 against other recall supporters for violations of 8 social media policy at the same time Ms. Carter was 9 charged? 10 A. I was not aware of that. 11 MR. PRYOR: Okay. Let's look at 21-E. 12 MR. GREENFIELD: Your Honor, if I may ask 13 to see this document. 14 THE COURT: 21-E is not in evidence yet. 15 We will keep the screen muted. 16 MR. PRYOR: Oh, it may not be. It is 17 getting ready to be. I offered 21-E. 18 MR. GREENFIELD: I just want to see what 19 you're talking about before -- 20 THE COURT: And I've got the jury screens 21 muted so you can bring up 21-E. 22 MR. GREENFIELD: I don't know that I have 23 an objection. I just want to see what you are 24 talking about, Mr. Pryor. Thank you. 25 MR. PRYOR: Don't put it to the jury yet.</p>	<p style="text-align: right;">Page 977</p> <p>1 MR. HILL: It's not. 2 MR. PRYOR: Okay. I offer 21-E. 3 THE COURT: All right. I will ask if 4 there are objections other than the normal 21 5 objections. 6 MR. McKEEBY: The normal 21 objections. 7 MR. GREENFIELD: Normal. 8 THE COURT: Okay. So I will overrule the 9 normal objections, let in 21-E with a limiting 10 instruction that it's for use in the claims against 11 the Union, not for use in the claims against in 12 Southwest. 13 We can publish. 14 (The referred-to document was admitted 15 into evidence as Plaintiff's Exhibit 21-E.) 16 BY MR. PRYOR: 17 Q. Let's look at 21-E. 18 MR. GREENFIELD: Your Honor, if I may make 19 another objection at sidebar then. 20 THE COURT: Okay. We need to mute it 21 then. 22 (Thereupon, the following proceedings were 23 had at sidebar:) 24 MR. GREENFIELD: Your Honor, if this 25 document is only being used for evidence against the</p>

<p style="text-align: right;">Page 978</p> <p>1 Union, then how it affected Mr. Schneider's decision 2 to terminate then makes this line of questioning 3 irrelevant. 4 THE COURT: So you've got an objection to 5 the question, not to the exhibit. 6 MR. GREENFIELD: To the -- well, no. To 7 the exhibit now based on this use. It is being 8 presented in a different use case. 9 The limiting instruction that you just 10 gave to the jury is that this evidence is not to be 11 used against Southwest, right? So that is what this 12 document is going to be used against, that he 13 believed this conspiracy existed. 14 MR. PRYOR: First of all, it goes to 15 credibility. He just said he wasn't aware of 16 anything like that. He wasn't aware of other 17 complaints about social media policy. 18 He's on the email that shows there are 12 19 people, that charges are being served against them 20 for violations of social media policy. 21 MR. GREENFIELD: I don't believe that was 22 his testimony. 23 THE COURT: So I will let you ask it. 24 I think what I'm chiefly concerned about, 25 it can't be used in the claims against Southwest,</p>	<p style="text-align: right;">Page 979</p> <p>1 right? And we can't have Southwest discipline 2 coming into the case. So this is early enough to 3 where I will let it in, but again, you can -- 4 MR. PRYOR: I have, from the first day of 5 trial, I still feel bad because I think I stepped on 6 a limine. And you ruled and you limited and I 7 appreciate it. I have not violated it since and I 8 won't here. I understand the ruling. 9 THE COURT: Okay. I will let you do it. 10 (Thereupon, the sidebar was concluded and 11 the following proceedings were held in open 12 court.) 13 THE COURT: I have admitted 21-E, and you 14 can proceed with your questions. 15 BY MR. PRYOR: 16 Q. Who is Julie O'Grady? 17 A. She's a senior investigator for employee 18 relations. 19 Q. Okay. And do you see your name on this email? 20 A. Yes. 21 Q. It says, "After reviewing the attached 22 information, below it are the names of flight 23 attendants, the time and date of comments in 2014, 24 and the comment they made on social media that could 25 be perceived as retaliatory."</p>
<p style="text-align: right;">Page 980</p> <p>1 Do you see that? 2 A. Yes. 3 Q. You received this on February 27th while you 4 were doing your investigation of Ms. Carter. True? 5 A. Yes. 6 Q. And did you become aware that this was 7 information supplied by Brian Talburt, a supporter 8 of Ms. Stone? 9 A. No. 10 Q. Are you sure of that? 11 A. Was I aware of -- 12 Q. Yes. You don't recall being on an email where 13 they said this was -- Brian Talburt is bringing all 14 this -- gathering all this -- scouring the Internet 15 for this information? 16 A. I don't recall at this time that that was 17 something I was aware of. 18 Q. At what time do you recall it? 19 You said, "I don't recall at this time." I 20 don't know what that means other than there must be 21 some other time that you do recall it. 22 A. I don't recall being aware of this. 23 Q. What did you mean by "at this time"? 24 A. Right now, today. 25 Q. Why did you feel the need to clarify that?</p>	<p style="text-align: right;">Page 981</p> <p>1 Were you concerned there is a document that 2 would show something else? 3 A. I don't understand that questioning. 4 Q. What do you not understand? 5 I'm testing the credibility of your answer 6 because I don't believe it. If you are asking me a 7 question. 8 MR. McKEEBY: Objection to the argument -- 9 MR. PRYOR: He asked me. 10 MR. GREENFIELD: Objection -- 11 THE COURT: Hold on. We can't talk over 12 each other. 13 What's the objection again? 14 MR. McKEEBY: Argumentative. 15 MR. GREENFIELD: And objection to the 16 continued use of sidebars. 17 THE COURT: I will sustain on both bases. 18 BY MR. PRYOR: 19 Q. If you look at Exhibit 21-E, it refers to 20 Jeanna Jackson and potential social media policy 21 violations by Jeanna Jackson. 22 Do you see that? 23 A. No, sir. It must be below -- it must be below 24 the screen. 25 Q. I can give you a hard copy or something.</p>

<p style="text-align: right;">Page 982</p> <p>1 A. Okay.</p> <p>2 Q. If we need to blow that up for you, let me</p> <p>3 know.</p> <p>4 A. I'm good.</p> <p>5 Q. Do you see it now?</p> <p>6 A. Yes. I see the name Jeanna Jackson.</p> <p>7 Q. Do you see that charges are being brought as to</p> <p>8 Jeanna Jackson for potential violation of social</p> <p>9 media policy, true?</p> <p>10 A. Yes.</p> <p>11 Q. Do you know who Jeanna Jackson is?</p> <p>12 A. I've heard of her.</p> <p>13 Q. Tell us what you've heard.</p> <p>14 A. She's a Dallas-based flight attendant.</p> <p>15 Q. That's all you know, right?</p> <p>16 A. Yes.</p> <p>17 Q. You don't know that she was the leader of the</p> <p>18 recall petition against Ms. Stone and her</p> <p>19 administration?</p> <p>20 A. I may have found that out during the</p> <p>21 investigation.</p> <p>22 Q. Okay. You may have. Did you or didn't you?</p> <p>23 A. I remember the name and being associated with</p> <p>24 the recall.</p> <p>25 Q. So you received an email telling you that</p>	<p style="text-align: right;">Page 983</p> <p>1 charges are being brought against Jeanna Jackson for</p> <p>2 potential violation of social media policy. Who did</p> <p>3 you think was bringing those charges?</p> <p>4 MR. McKEEBY: Objection, mischaracterizes.</p> <p>5 There is nothing about charges in this document.</p> <p>6 THE COURT: I will allow you to rephrase</p> <p>7 "charges" and ask the same question.</p> <p>8 MR. PRYOR: Am I rephrasing?</p> <p>9 THE COURT: Yes.</p> <p>10 MR. PRYOR: Okay.</p> <p>11 BY MR. PRYOR:</p> <p>12 Q. Sir, is it correct that you were aware, during</p> <p>13 the time you were investigating claims against</p> <p>14 Ms. Carter for social media policy by the president</p> <p>15 of the Union, that Jeanna Jackson was also being</p> <p>16 investigated for potential social media policy</p> <p>17 violations? True?</p> <p>18 A. Yes.</p> <p>19 Q. Who brought those complaints?</p> <p>20 A. I'm not aware.</p> <p>21 Q. Did you ever become aware?</p> <p>22 A. I don't recall that.</p> <p>23 Q. Well, if you had become aware, wouldn't you</p> <p>24 have included that in your investigation?</p> <p>25 A. This was not part of my investigation and I</p>
<p style="text-align: right;">Page 984</p> <p>1 didn't include it.</p> <p>2 Q. So you were aware that -- you knew she was a</p> <p>3 recall petition supporter? Did you know that?</p> <p>4 A. Who is "she"?</p> <p>5 Q. Jeanna Jackson.</p> <p>6 A. Yes. I found out in my investigation.</p> <p>7 Q. Okay. What about these others? Did you find</p> <p>8 out, in fact, every single one of them is a recall</p> <p>9 supporter?</p> <p>10 A. I don't see the others.</p> <p>11 Q. Well, let's show you the rest of them.</p> <p>12 MR. GREENFIELD: Objection, lack of</p> <p>13 foundation to his testimony about who these</p> <p>14 individuals are. There is nothing being presented</p> <p>15 to the Court on that.</p> <p>16 THE COURT: I will allow you to ask.</p> <p>17 BY MR. PRYOR:</p> <p>18 Q. How about Beverly Belanger? Do you know she's</p> <p>19 a recall supporter?</p> <p>20 A. No.</p> <p>21 MR. GREENFIELD: Objection, your Honor.</p> <p>22 He's offering --</p> <p>23 BY MR. PRYOR:</p> <p>24 Q. Did you inquire?</p> <p>25 MR. GREENFIELD: Excuse me.</p>	<p style="text-align: right;">Page 985</p> <p>1 Objection, your Honor. He's offering</p> <p>2 testimony that has not been presented to the Court.</p> <p>3 THE COURT: Well, lawyers can't offer</p> <p>4 testimony, so I'll tell the witnesses [sic],</p> <p>5 everything you hear out a lawyer's mouth is not</p> <p>6 testimony, it is not evidence.</p> <p>7 You can ask your question.</p> <p>8 MR. PRYOR: Okay. I just want to see, was</p> <p>9 the objection that there's no foundation that these</p> <p>10 are recall petition supporters?</p> <p>11 THE COURT: There has been testimony on</p> <p>12 who the recall supporters have been in this case.</p> <p>13 You can ask if he knows if someone is a</p> <p>14 recall supporter.</p> <p>15 BY MR. PRYOR:</p> <p>16 Q. Do you know whether or not Michelle Foley was a</p> <p>17 recall petition supporter?</p> <p>18 A. No.</p> <p>19 Q. What about Charlene Bates Carter?</p> <p>20 A. Through this investigation.</p> <p>21 Q. Do you know whether or not Charlene Bates</p> <p>22 Carter was a recall petition supporter?</p> <p>23 A. Yes.</p> <p>24 Q. So you know, at a minimum, two people on this</p> <p>25 list that are recall petition supporters, and social</p>

<p style="text-align: right;">Page 986</p> <p>1 media policy violations are being investigated, 2 true? 3 A. Yes. 4 Q. What about Greg Hofer? Do you know if he's a 5 recall petition supporter? 6 A. No. 7 Q. You don't know? 8 A. I don't know. 9 Q. And by the way, did you ask? 10 A. No. 11 Q. Why were you included on this email, I wonder? 12 MR. McKEEBY: Objection. Is that a 13 question? 14 MR. PRYOR: Yes. It's just another way to 15 ask a question, yes. 16 THE COURT: I will allow it. 17 MR. GREENFIELD: Well, then I would object 18 to the lack of foundation, and it calls for 19 speculation because if he didn't send it, he 20 wouldn't know why. 21 THE COURT: Overrule on foundation. 22 As to speculation, you can only answer if 23 you have personal knowledge. 24 THE WITNESS: I don't have personal 25 knowledge of this.</p>	<p style="text-align: right;">Page 987</p> <p>1 BY MR. PRYOR: 2 Q. Do you have any understanding from your 28 3 years of experience with Southwest Airlines why you 4 would be included on this email? 5 A. Only that Charlene Bates at the time was 6 Denver-based. 7 Q. So someone wanted you to be aware of this 8 knowing that you were investigating Charlene Carter, 9 true? 10 MR. McKEEBY: Objection, foundation. 11 MR. PRYOR: It's what his answer was. Now 12 I'm -- 13 THE COURT: I will allow the question. 14 MR. GREENFIELD: Then I would object to 15 speculation because it is now asking what he knew in 16 that regard or why he was -- again, why he was -- 17 THE COURT: Hold on. That's a speaking 18 objection. 19 I will overrule the objection and only 20 allow him to answer if he has personal knowledge. 21 THE WITNESS: I don't have personal 22 knowledge as to why. 23 BY MR. PRYOR: 24 Q. Okay. Let's go back to my question. 25 From your 28 years of experience, do you have</p>
<p style="text-align: right;">Page 988</p> <p>1 any understanding as to why it would be that you 2 were included on this email? 3 You know how the structure works at Southwest 4 Airlines. 5 This isn't your investigation, is it? No one 6 asked you to investigate these people, did they? 7 MR. GREENFIELD: Objection, compound 8 question. Multiple questions. 9 MR. McKEEBY: And objection, asked and 10 answered. 11 THE COURT: Okay. Sustained. 12 Break it up, and we will see if there is 13 another objection. 14 BY MR. PRYOR: 15 Q. Did anyone ask you to do the investigation of 16 the persons listed in this email? 17 A. Only the one that was assigned to my base in 18 Denver. 19 Q. Well, what was assigned to you, Ms. Carter? 20 A. Yes. 21 Q. And if you look at the page where Ms. Carter is 22 listed, it says, "Charlene Bates Carter, Jeanna 23 Jackson, I agree. We need to expose each and every 24 one of them to their hypocrisy and nastiness." 25 That's what you were asked to investigate?</p>	<p style="text-align: right;">Page 989</p> <p>1 A. Those comments, yes. 2 Q. You were asked to investigate those comments? 3 A. Not me particularly. It was sent to me, but I 4 have people in my base that do that. 5 But, yes, those comments are what they are 6 referring to in the message of the email. 7 Q. What did you do in regard to investigating 8 those comments? 9 By the way, were those comments sent to Audrey 10 Stone? 11 A. I don't know that. 12 Q. So you, therefore, must have gathered 13 information about these comments, since you viewed 14 this email as saying you are to investigate this, 15 right? 16 A. At the time this happened, I had somebody else 17 on my team handle this. 18 Q. Okay. So who did you have investigate -- by 19 the way, this is not a complaint by Audrey Stone, 20 true? 21 A. I don't recall it being from Audrey Stone. 22 Q. Well, do you see anything in this email, have 23 you ever seen anything saying that Audrey Stone was 24 bringing this specific complaint against Ms. Carter? 25 A. I can only see one portion of this, so I don't</p>

<p style="text-align: right;">Page 990</p> <p>1 know.</p> <p>2 Q. What do you want to see?</p> <p>3 MR. PRYOR: Give me the exhibit. I will</p> <p>4 give him the whole thing. It's in the boxes.</p> <p>5 BY MR. PRYOR:</p> <p>6 Q. So did you -- I assume, since you were told to</p> <p>7 investigate this complaint, we are going to see when</p> <p>8 you interviewed Ms. Carter, you asked her about</p> <p>9 these specific comments in this email, because how</p> <p>10 else could you investigate it, right?</p> <p>11 A. I don't recall that part of it.</p> <p>12 Q. Sir, let me hand you --</p> <p>13 MR. PRYOR: May I approach?</p> <p>14 THE COURT: You may.</p> <p>15 BY MR. PRYOR:</p> <p>16 Q. I'm going to hand you Exhibit 21-E.</p> <p>17 Because you were to investigate the comments on</p> <p>18 the second page that Ms. Carter's -- that are</p> <p>19 attributed to Ms. Carter.</p> <p>20 If you were asked to investigate that, when you</p> <p>21 interviewed Ms. Carter, you certainly would have</p> <p>22 asked her about those comments, true?</p> <p>23 MR. McKEEBY: Objection, mischaracterizes.</p> <p>24 Objection, compound.</p> <p>25 MR. GREENFIELD: And objection on our end,</p>	<p style="text-align: right;">Page 991</p> <p>1 vague. We don't know which investigation he's</p> <p>2 talking about at this point or which --</p> <p>3 THE COURT: Hold on. That is speaking.</p> <p>4 Sustained.</p> <p>5 Can you break it up, clarify it?</p> <p>6 MR. PRYOR: What was the --</p> <p>7 THE COURT: Compound and vague is what I</p> <p>8 sustained on.</p> <p>9 MR. PRYOR: Okay. I will break it up.</p> <p>10 BY MR. PRYOR:</p> <p>11 Q. You have told us that you were on this email</p> <p>12 because you were tasked with investigating these</p> <p>13 comments regarding Ms. Carter -- that are attributed</p> <p>14 to Ms. Carter, true?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. So, therefore, when you interviewed</p> <p>17 Ms. Carter as part of your investigation, you asked</p> <p>18 her about these comments, true?</p> <p>19 MR. McKEEBY: Objection.</p> <p>20 MR. GREENFIELD: Objection, your Honor,</p> <p>21 vague. Which investigation are we referring to?</p> <p>22 THE COURT: I will allow it.</p> <p>23 THE WITNESS: These were two separate</p> <p>24 investigations.</p> <p>25</p>
<p style="text-align: right;">Page 992</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. Okay. And you didn't do the separate</p> <p>3 investigation?</p> <p>4 A. I don't remember.</p> <p>5 Q. Who did the separate investigation?</p> <p>6 A. I don't remember. That was five years ago.</p> <p>7 Q. Well, a lot of things were five years ago.</p> <p>8 Did you assign this to someone?</p> <p>9 A. Most likely, yes.</p> <p>10 Q. You have no recollection of doing that?</p> <p>11 A. I don't at this ---</p> <p>12 Q. Do you know that Ms. Carter was never</p> <p>13 interviewed about this?</p> <p>14 A. I don't know that.</p> <p>15 Q. Well, you assigned it to someone to</p> <p>16 investigate. How can they investigate it without</p> <p>17 interviewing Ms. Carter?</p> <p>18 A. There is not a time frame on this.</p> <p>19 Q. So maybe she will get a notice in a week or so</p> <p>20 from now?</p> <p>21 MR. McKEEBY: Objection, argumentative.</p> <p>22 THE COURT: Sustained.</p> <p>23 BY MR. PRYOR:</p> <p>24 Q. There is no time frame?</p> <p>25 MR. McKEEBY: Objection.</p>	<p style="text-align: right;">Page 993</p> <p>1 THE COURT: He asked if there is no time</p> <p>2 frame. What's your objection?</p> <p>3 MR. McKEEBY: I was objecting to the first</p> <p>4 question. I don't understand the second one.</p> <p>5 THE COURT: I sustained that.</p> <p>6 So the second question is: There is no</p> <p>7 time frame. You can answer.</p> <p>8 BY MR. PRYOR:</p> <p>9 Q. So the time frame is still running; it could</p> <p>10 happen at any time, right?</p> <p>11 A. Ms. Carter doesn't work for the company</p> <p>12 anymore.</p> <p>13 Q. Well, so up until the time she was terminated,</p> <p>14 they could have investigated this claim?</p> <p>15 A. Yes.</p> <p>16 Q. And do you know that, in fact, it never</p> <p>17 occurred?</p> <p>18 A. I don't know that.</p> <p>19 Q. So you were tasked with doing this, and you</p> <p>20 didn't take that task seriously enough to find out</p> <p>21 if it was done?</p> <p>22 A. Not in the time frame before she was</p> <p>23 terminated.</p> <p>24 Q. So you thought that since you terminated her,</p> <p>25 that you didn't have to worry about this one</p>

<p style="text-align: right;">Page 994</p> <p>1 anymore, true?</p> <p>2 A. It may have been worked on, I don't know. I</p> <p>3 don't remember.</p> <p>4 Q. You don't remember who you assigned it to. You</p> <p>5 think that it wasn't investigated because you fired</p> <p>6 her before this investigation would be completed?</p> <p>7 MR. McKEEBY: Objection, mischaracterizes</p> <p>8 testimony.</p> <p>9 THE COURT: I will allow it.</p> <p>10 BY MR. PRYOR:</p> <p>11 Q. You can answer.</p> <p>12 A. I don't remember the details of this.</p> <p>13 Q. Well, you remember the detail that you were</p> <p>14 assigned the investigation of this claim.</p> <p>15 By the way, where in this email does it say you</p> <p>16 were assigned this investigation?</p> <p>17 A. It states that it was sent to me.</p> <p>18 Q. I understand. It was sent to a lot of people.</p> <p>19 Where does it say, Oh, by the way, Ed, you are</p> <p>20 the one that needs to investigate Ms. Carter? It</p> <p>21 doesn't say that, does it?</p> <p>22 A. Not specifically.</p> <p>23 Q. What does it generally say then?</p> <p>24 A. It says my name on the "to" for the email.</p> <p>25 Q. So you are supposed to know from that that you</p>	<p style="text-align: right;">Page 995</p> <p>1 are the one that is supposed to investigate this?</p> <p>2 A. Farther down it says, "Please work with labor</p> <p>3 relations and your HR business partner."</p> <p>4 So I would assume by this email that they mean</p> <p>5 my team look into this.</p> <p>6 Q. All right. Let's go back to Exhibit 66.</p> <p>7 Ms. Stone is saying, "I find the messages to be</p> <p>8 incredibly disturbing and to be a violation of the</p> <p>9 social media policy." Right?</p> <p>10 A. Yes, that's what it says.</p> <p>11 Q. "I find it obscene and violent as well as</p> <p>12 threatening in nature." Correct?</p> <p>13 A. Yes. That's what it says.</p> <p>14 Q. Then it says, "I also believe it is a violation</p> <p>15 of the workplace bullying and hazing policy under</p> <p>16 cyberbullying." Right?</p> <p>17 A. Yes.</p> <p>18 Q. And tell me where the cyberbullying policy is.</p> <p>19 Is there one?</p> <p>20 A. The workplace bullying and hazing policy refers</p> <p>21 to cyberbullying.</p> <p>22 Q. Workplace bullying is cyberbullying? Yes?</p> <p>23 A. Cyberbullying could be workplace bullying and</p> <p>24 hazing policy.</p> <p>25 Q. Let's look at the -- let's look at that</p>
<p style="text-align: right;">Page 996</p> <p>1 cyberbullying policy.</p> <p>2 Let me figure out which exhibit it is.</p> <p>3 MR. HILL: 15.</p> <p>4 MR. PRYOR: Someone says 15.</p> <p>5 MR. HILL: 13?</p> <p>6 MR. PRYOR: Whichever one it is.</p> <p>7 THE COURT: It is not in yet.</p> <p>8 MR. GREENFIELD: Can we mute the jury?</p> <p>9 MR. PRYOR: Is it in evidence?</p> <p>10 THE COURT: No.</p> <p>11 MR. PRYOR: We offer Exhibit 13.</p> <p>12 THE COURT: 13. Objections to 13?</p> <p>13 MR. McKEEBY: No objection.</p> <p>14 MR. GREENFIELD: No objection.</p> <p>15 THE COURT: Okay. 13 is in. We will</p> <p>16 unmute it for the jury to see.</p> <p>17 (The referred-to document was admitted</p> <p>18 into evidence as Plaintiff's Exhibit 13.)</p> <p>19 MR. PRYOR: Let's blow that up a little</p> <p>20 bit.</p> <p>21 BY MR. PRYOR:</p> <p>22 Q. Can you see it, sir?</p> <p>23 A. I do, yes.</p> <p>24 Q. Okay. Show me where the cyberbullying is so we</p> <p>25 can talk about that.</p>	<p style="text-align: right;">Page 997</p> <p>1 You told us it's in here. Just point to it for</p> <p>2 me.</p> <p>3 A. This may not be the latest version of it.</p> <p>4 Q. I'm sorry?</p> <p>5 A. This may not be the latest version of it.</p> <p>6 Q. Well, sir, you see April 16, 2015? This was</p> <p>7 the policy in place at the time you investigated</p> <p>8 Ms. Carter. You don't know that?</p> <p>9 MR. McKEEBY: Objection, foundation.</p> <p>10 THE COURT: Sustained.</p> <p>11 You've got to ask him.</p> <p>12 BY MR. PRYOR:</p> <p>13 Q. You think there is another version of this?</p> <p>14 A. I don't know. I know that cyberbullying was</p> <p>15 part of our workplace bullying and hazing policy.</p> <p>16 Q. Okay. So this is what we asked Southwest</p> <p>17 Airlines. Give us your policy. This is what they</p> <p>18 gave us.</p> <p>19 MR. GREENFIELD: Objection --</p> <p>20 BY MR. PRYOR:</p> <p>21 Q. You are telling us there is something else.</p> <p>22 MR. GREENFIELD: Objection, your Honor,</p> <p>23 testimony, and it's talking about --</p> <p>24 THE COURT: Sustained.</p> <p>25</p>

<p style="text-align: right;">Page 998</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. So at least as to this, there is nothing in</p> <p>3 here about cyberbullying, correct?</p> <p>4 A. I haven't read the whole thing.</p> <p>5 Q. Read it.</p> <p>6 A. I don't see it specifically listed in this one.</p> <p>7 Q. But it's your sworn testimony there was a</p> <p>8 workplace bullying cyber -- what did you call it,</p> <p>9 cyber --</p> <p>10 A. What it referred to in the other letter.</p> <p>11 Q. Cyberbullying policy that you considered in</p> <p>12 terminating Ms. Carter, true?</p> <p>13 A. Not a cyberbullying policy.</p> <p>14 Q. Oh. A cyberbullying non-policy. Is that what</p> <p>15 you considered?</p> <p>16 A. No.</p> <p>17 Q. What did you consider?</p> <p>18 A. I considered the totality of the workplace</p> <p>19 bullying and hazing policy.</p> <p>20 Q. Did you look at and consider a written</p> <p>21 cyberbullying policy in deciding to terminate</p> <p>22 Ms. Carter, as you have already testified, or does</p> <p>23 this change your opinion?</p> <p>24 A. I don't know of a cyberbullying policy. I know</p> <p>25 cyberbullying was referred to.</p>	<p style="text-align: right;">Page 999</p> <p>1 Q. You just told us a few minutes ago that she</p> <p>2 violated a cyberbullying policy, and I said, Where</p> <p>3 is it?</p> <p>4 And you said, It's in the workplace bullying</p> <p>5 policy.</p> <p>6 And it is not there, right, at least not this</p> <p>7 document, true?</p> <p>8 A. True.</p> <p>9 Q. Okay. So are you standing by your testimony</p> <p>10 that you absolutely did consider a written</p> <p>11 cyberbullying policy in regard to terminating</p> <p>12 Ms. Carter, as you initially testified?</p> <p>13 A. When you refer to "cyberbullying policy," I'm</p> <p>14 only talking about the workplace bullying and hazing</p> <p>15 policy which contained a cyberbullying --</p> <p>16 Q. Okay. Great. Tell us once again, then, where</p> <p>17 it is. It's right here in front of you. Where is</p> <p>18 it?</p> <p>19 A. It's not on this page.</p> <p>20 Q. But you are telling us there is one. You are</p> <p>21 certain because you considered it in terminating</p> <p>22 Ms. Carter, true?</p> <p>23 A. I considered the totality of the workplace</p> <p>24 bullying and hazing.</p> <p>25 Q. Did you consider the written cyberbullying</p>
<p style="text-align: right;">Page 1000</p> <p>1 policy contained within the workplace bullying and</p> <p>2 hazing policy that you've told us about?</p> <p>3 A. No.</p> <p>4 Q. Is there one?</p> <p>5 A. I stated that there is not a cyberbullying</p> <p>6 policy. I have stated that the workplace bullying</p> <p>7 and hazing policy had a comment about cyberbullying</p> <p>8 in it.</p> <p>9 Q. Okay. But this one doesn't?</p> <p>10 A. Correct.</p> <p>11 Q. And when you terminated Ms. Carter, you were</p> <p>12 looking at a workplace bullying policy that included</p> <p>13 a comment about cyberbullying, true?</p> <p>14 A. No, I don't know that for sure. I don't</p> <p>15 remember. Because what you are saying is that the</p> <p>16 previous letter that was up referred to</p> <p>17 cyberbullying, and I wasn't aware of that.</p> <p>18 Q. Sir, I'm just asking you to pick a story and we</p> <p>19 can talk about it. Which one are you going with?</p> <p>20 MR. McKEEBY: Objection, argumentative.</p> <p>21 Sidebar.</p> <p>22 THE COURT: Sustained.</p> <p>23 MR. PRYOR: He's told several stories.</p> <p>24 I'm entitled to call him on it.</p> <p>25 THE COURT: You can ask. Just rephrase</p>	<p style="text-align: right;">Page 1001</p> <p>1 it.</p> <p>2 BY MR. PRYOR:</p> <p>3 Q. All right. So we can agree that this phantom</p> <p>4 cyberbullying policy is not in this document, right?</p> <p>5 MR. McKEEBY: Objection to the sidebar</p> <p>6 about the phantom policy.</p> <p>7 MR. PRYOR: It wasn't sidebar, it was</p> <p>8 sarcasm, and I'm allowed.</p> <p>9 THE COURT: I will allow this question.</p> <p>10 BY MR. PRYOR:</p> <p>11 Q. You can answer. It's not in here, is it?</p> <p>12 A. The cyberbullying statement is not in here,</p> <p>13 correct.</p> <p>14 Q. But while we are here, though, let's see what</p> <p>15 is here.</p> <p>16 It says "workplace bullying." Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. The policy is not bullying, the policy is</p> <p>19 workplace bullying.</p> <p>20 Let me give you an example. Two flight</p> <p>21 attendants. You got my example so far?</p> <p>22 A. Yes.</p> <p>23 Q. They go to Cabo on vacation. I'm making this</p> <p>24 up as I go. They go to Cabo on vacation.</p> <p>25 One of them is walking down an aisle and the</p>

<p style="text-align: right;">Page 1002</p> <p>1 other one is coming towards them in an aisle, and 2 one of the flight attendants refuses to get out of 3 the way. 4 You got the example so far? 5 A. Yes. 6 Q. The flight attendant that can't get around that 7 flight attendant files a complaint with Southwest 8 Airlines because it violates the workplace bullying 9 policy. 10 Does it? 11 MR. McKEEBY: Object to the incomplete 12 hypothetical. 13 THE COURT: I will allow him to answer to 14 the extent he can. 15 BY MR. PRYOR: 16 Q. Do you have to look at the policy to see if 17 that violates it? 18 Go ahead. You can answer. 19 A. I'm not sure on that one. I would have to have 20 more details on it. 21 Q. I have given you every detail you need, sir. 22 First of all, let's start with the basic. They 23 are on vacation in Cabo. Are they at the workplace? 24 MR. McKEEBY: Objection, incomplete 25 hypothetical. I don't know if we are talking about</p>	<p style="text-align: right;">Page 1003</p> <p>1 a plane or on the beach. Objection. 2 MR. PRYOR: I just said they were in a 3 hallway. 4 These objections to try and protect the 5 witness's lying is inappropriate. 6 THE COURT: Hold on, Counsel. 7 I will strike that. 8 MR. PRYOR: It's absolutely -- 9 THE COURT: I will strike that. 10 Okay. Ask the question again. Complete 11 the hypothetical. 12 BY MR. PRYOR: 13 Q. Did I make it clear to you, sir, that they were 14 not at work in my example? 15 A. You didn't state that. So now I know, yes. 16 Q. A hallway on vacation in Cabo is work? 17 A. I don't know which hallway you are talking 18 about. 19 Q. Okay. All right. It's the Hilton. 20 A. Okay. 21 Q. You got it? 22 A. Yes. 23 Q. Is that clear enough for you? 24 Can you answer my question now? 25 A. State the question one more time.</p>
<p style="text-align: right;">Page 1004</p> <p>1 Q. Flight attendants are walking down an aisle 2 towards each other at the Hilton. One of them 3 refuses to get out of the way of the other one. 4 The other person then files a complaint with 5 Southwest Airlines. 6 Would that violate the workplace bullying 7 policy? 8 A. One of the statements in here is "blocking 9 one's path," and so that would be considered as 10 possibly violating the workplace bullying hazing 11 policy. 12 Q. So that would violate Southwest policy even 13 though it is not in the workplace. 14 A. We would have to investigate it to know if it 15 violated. 16 Q. What? 17 A. We would have to investigate it to see if it 18 violated or not on that. To be specific. 19 Q. I will try it another way. 20 Does the workplace bullying policy require it 21 to involve the workplace, as stated in the title? 22 A. I would assume it would have to refer to the 23 workplace or something to take place that has to do 24 with work. 25 Q. If you assume it has to take place in the</p>	<p style="text-align: right;">Page 1005</p> <p>1 workplace, what was your problem with saying, no, 2 the policy wouldn't apply to the flight attendants 3 in Cabo? 4 A. I don't know your question on that one. 5 Q. You didn't understand, even though I repeated 6 it over and over. 7 So, by the way, knowing whether or not it is in 8 the workplace is important, isn't it? Because it's 9 a workplace bullying policy, right? So that's 10 important? It's right there in the title. Yeah? 11 You can say yes. 12 A. I would have to investigate to know the 13 specifics on it. Yes, it does say "workplace" on 14 it, to answer your question. 15 Q. Is it important to determine a workplace 16 bullying violation to determine whether or not the 17 violation took place in the workplace? 18 A. It would have to do with work, yes. 19 Q. No, not work, workplace. There is a 20 difference. 21 Would it have to involve the workplace as 22 stated in the policy? 23 MR. McKEEBY: Objection, argumentative. 24 THE COURT: I will allow it. 25 THE WITNESS: As stated here, it does,</p>

<p style="text-align: right;">Page 1006</p> <p>1 yes.</p> <p>2 BY MR. PRYOR:</p> <p>3 Q. And, in fact, this is the policy that you</p> <p>4 terminated Ms. Carter for, and you told us you</p> <p>5 didn't even ask if it occurred in the workplace and</p> <p>6 you didn't care. It didn't matter to you, right?</p> <p>7 MR. McKEEBY: Objection, compound.</p> <p>8 THE COURT: Sustained.</p> <p>9 BY MR. PRYOR:</p> <p>10 Q. You didn't even ask Ms. Carter because it</p> <p>11 didn't matter to you if the activity took place in</p> <p>12 the workplace? True?</p> <p>13 MR. McKEEBY: Objection, compound.</p> <p>14 THE COURT: I will overrule that one.</p> <p>15 BY MR. PRYOR:</p> <p>16 Q. You testified to it earlier, sir. What are you</p> <p>17 going to do?</p> <p>18 A. If it has to do between --</p> <p>19 MR. GREENFIELD: Objection, your Honor, to</p> <p>20 the continued sidebar.</p> <p>21 BY MR. PRYOR:</p> <p>22 Q. It has to do with what?</p> <p>23 THE COURT: I will allow you to answer the</p> <p>24 question.</p> <p>25</p>	<p style="text-align: right;">Page 1007</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. It has to do with what?</p> <p>3 A. If it has to do with the workplace, yes.</p> <p>4 Q. That wasn't my question. Of course it has to</p> <p>5 do with the workplace.</p> <p>6 You didn't determine whether or not Ms. Carter</p> <p>7 was even at the workplace.</p> <p>8 A. I did not.</p> <p>9 Q. And it's crucial to firing someone for</p> <p>10 violating the workplace bullying policy that you</p> <p>11 fired her for violating the workplace bullying</p> <p>12 policy, true?</p> <p>13 MR. McKEEBY: Objection, he's testifying,</p> <p>14 argumentative.</p> <p>15 THE COURT: I will allow it.</p> <p>16 THE WITNESS: I fired her for violation of</p> <p>17 the workplace hazing and bullying policy, yes.</p> <p>18 BY MR. PRYOR:</p> <p>19 Q. Now I have another question for you. I wish I</p> <p>20 could remember it.</p> <p>21 All right. I remember what it was.</p> <p>22 You went through a couple of drafts of the</p> <p>23 termination letter for Ms. Carter, didn't you?</p> <p>24 A. I believe so, yes.</p> <p>25 Q. Yes. And you were running it by those same</p>
<p style="text-align: right;">Page 1008</p> <p>1 people that were investigating all of the other</p> <p>2 recall petition people, didn't you?</p> <p>3 A. Which people are you referring to?</p> <p>4 Q. Some of the people on this Exhibit 21. It's</p> <p>5 sitting in front of you.</p> <p>6 MR. GREENFIELD: Objection, your Honor,</p> <p>7 lack of foundation, and calls for --</p> <p>8 BY MR. PRYOR:</p> <p>9 Q. You sent it to --</p> <p>10 MR. GREENFIELD: Excuse me.</p> <p>11 THE COURT: Hold on. I've got an</p> <p>12 objection.</p> <p>13 MR. GREENFIELD: Objection, your Honor,</p> <p>14 lack of foundation, and then calls for speculation.</p> <p>15 THE COURT: I will let you back up and set</p> <p>16 the foundation.</p> <p>17 MR. PRYOR: Okay. Ask again?</p> <p>18 THE COURT: Yes.</p> <p>19 MR. PRYOR: Fix it?</p> <p>20 BY MR. PRYOR:</p> <p>21 Q. Sir, did you send drafts of the termination</p> <p>22 letter of Ms. Carter to anyone on Exhibit 21-E?</p> <p>23 And I will specifically refer you to Maureen</p> <p>24 Emlet.</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 1009</p> <p>1 Q. You did send it to her, right?</p> <p>2 A. Yes.</p> <p>3 Q. And when you sent it to her, you guys were</p> <p>4 trying to figure out to get Ms. Carter, and you took</p> <p>5 out the word "workplace" from "bullying," didn't</p> <p>6 you?</p> <p>7 A. I don't recall.</p> <p>8 Q. You wouldn't do that, would you?</p> <p>9 A. Not intentionally, no.</p> <p>10 Q. It just so happens that in your draft you took</p> <p>11 out the word "workplace." That's just an accident,</p> <p>12 right?</p> <p>13 A. I don't remember when I made that that I</p> <p>14 intentionally took it out for any reason.</p> <p>15 Q. Who told you you wouldn't get away with that</p> <p>16 and made you put it back in?</p> <p>17 MR. McKEEBY: Objection, foundation,</p> <p>18 speculation.</p> <p>19 BY MR. PRYOR:</p> <p>20 Q. Anyone?</p> <p>21 THE COURT: Hold on. There is an</p> <p>22 objection. I've got to rule on it.</p> <p>23 I will overrule.</p> <p>24 He can answer if he has personal</p> <p>25 knowledge.</p>

<p style="text-align: right;">Page 1010</p> <p>1 THE WITNESS: Restate the question.</p> <p>2 BY MR. PRYOR:</p> <p>3 Q. Yes.</p> <p>4 Who told you, you are not going to get away</p> <p>5 with taking out the word "workplace," you have got</p> <p>6 to put it back in?</p> <p>7 A. Nobody.</p> <p>8 Q. So it's your testimony, if such an error</p> <p>9 occurred -- we will look at some documents in a</p> <p>10 bit -- if such an error occurred, you are the one</p> <p>11 that fixed it, right?</p> <p>12 A. I don't recognize that there was an error. The</p> <p>13 first draft was simply something that needed to be</p> <p>14 proofread.</p> <p>15 Q. Let's go back to Exhibit 66.</p> <p>16 Let's see if I can figure out where I was.</p> <p>17 Oh. Let's go to the fourth paragraph. "While</p> <p>18 I hold a current position."</p> <p>19 "While I hold a current position within my</p> <p>20 union."</p> <p>21 So once again, you are being told this involves</p> <p>22 the Union, true?</p> <p>23 MR. McKEEBY: Objection, the document</p> <p>24 speaks for itself.</p> <p>25 MR. PRYOR: He received it and interpreted</p>	<p style="text-align: right;">Page 1011</p> <p>1 it.</p> <p>2 THE COURT: I will allow him to answer.</p> <p>3 THE WITNESS: It states that she holds a</p> <p>4 current position in the Union, yes.</p> <p>5 BY MR. PRYOR:</p> <p>6 Q. And did you need someone to tell you what that</p> <p>7 position was?</p> <p>8 A. For Audrey, no.</p> <p>9 Q. What was her position?</p> <p>10 A. President of TWU Local 556.</p> <p>11 Q. So you knew that, right?</p> <p>12 A. Yes.</p> <p>13 Q. She goes on to talk about repeated personal</p> <p>14 attacks and threats made both via social media and</p> <p>15 face-to-face.</p> <p>16 You know from your interview that's not</p> <p>17 referring to Charlene Carter, true?</p> <p>18 A. I don't know that.</p> <p>19 Q. I'm sorry?</p> <p>20 A. I don't know that.</p> <p>21 Q. You don't what?</p> <p>22 A. I don't know that.</p> <p>23 Q. After you interviewed her, did you find out</p> <p>24 that she's talking about other purported flight</p> <p>25 attendants doing that, not Charlene Carter?</p>
<p style="text-align: right;">Page 1012</p> <p>1 Charlene Carter didn't face-to-face with her, true?</p> <p>2 A. But it says "made via social media as well as</p> <p>3 altercations face-to-face."</p> <p>4 Q. I wasn't talking about that. I'm asking about</p> <p>5 the face-to-face now. Did you think I was asking</p> <p>6 about the others?</p> <p>7 I said there was no face-to-face. So you don't</p> <p>8 answer that, you point to something else. Why would</p> <p>9 you do that, sir, if you are not trying to be</p> <p>10 evasive?</p> <p>11 MR. GREENFIELD: Objection. Objection,</p> <p>12 your Honor, argumentative. He's badgering the</p> <p>13 witness.</p> <p>14 THE COURT: Sustained.</p> <p>15 MR. PRYOR: He's being evasive. I'm</p> <p>16 entitled to call him on it.</p> <p>17 THE COURT: You can rephrase it.</p> <p>18 You can rephrase it.</p> <p>19 BY MR. PRYOR:</p> <p>20 Q. Sir, did I ask you about whether or not</p> <p>21 Ms. Carter is the one that caused an altercation</p> <p>22 face-to-face?</p> <p>23 A. No.</p> <p>24 Q. I didn't ask you that.</p> <p>25 A. I didn't understand the question when you first</p>	<p style="text-align: right;">Page 1013</p> <p>1 said it. That's what I read what it said.</p> <p>2 And no, Ms. Carter did not do anything</p> <p>3 face-to-face.</p> <p>4 Q. Okay. I know -- we all know that. But what</p> <p>5 I'm trying to figure out is when I asked you that,</p> <p>6 you answered something else, if you are not trying</p> <p>7 to be evasive.</p> <p>8 A. I'm trying --</p> <p>9 MS. GREEN: Objection, your Honor.</p> <p>10 THE COURT: Sustained.</p> <p>11 MR. GREENFIELD: It's still argumentative.</p> <p>12 MR. McKEEBY: And move to strike.</p> <p>13 BY MR. PRYOR:</p> <p>14 Q. So as a matter of fact --</p> <p>15 MR. McKEEBY: He's repeatedly referring to</p> <p>16 the witness as evasive, as lying, and that needs to</p> <p>17 be stricken from the record. He can make those</p> <p>18 arguments in closing.</p> <p>19 THE COURT: I will strike the last</p> <p>20 reference.</p> <p>21 MR. McKEEBY: Thank you.</p> <p>22 THE COURT: You may proceed.</p> <p>23 BY MR. PRYOR:</p> <p>24 Q. You, in fact, concluded that Ms. Carter made no</p> <p>25 threat at all to Ms. Stone, true?</p>

<p style="text-align: right;">Page 1014</p> <p>1 A. I don't recall that.</p> <p>2 Q. So Audrey Stone tells you she thinks she's</p> <p>3 being threatened by Charlene Carter. That's part of</p> <p>4 her complaint.</p> <p>5 And you don't recall your conclusion as to</p> <p>6 whether or not Ms. Stone was threatened, true?</p> <p>7 A. There were things that were stated on social</p> <p>8 media that could be perceived as threatening, yes.</p> <p>9 Q. Did you conclude there was a threat as a result</p> <p>10 of your investigation?</p> <p>11 A. I questioned her in the fact-finding as a</p> <p>12 statement that she made that referred to "can't wait</p> <p>13 until you get back online." And to me, that seemed</p> <p>14 like it could have been a veiled threat, so I</p> <p>15 inquired to her about it.</p> <p>16 Q. Did you conclude it was a veiled threat?</p> <p>17 A. Her statement was that she didn't want her to</p> <p>18 be a president anymore and she wanted her to be a</p> <p>19 flight attendant.</p> <p>20 Q. Do you understand my question was what was your</p> <p>21 conclusion, sir?</p> <p>22 A. It could have been a threat.</p> <p>23 Q. Okay. So that's going to be in your report</p> <p>24 then. If you concluded it could have been a threat,</p> <p>25 surely that will be in your report, right?</p>	<p style="text-align: right;">Page 1015</p> <p>1 A. Which report are you referring to?</p> <p>2 Q. Your conclusion, your investigation notes, and</p> <p>3 the termination. Surely you terminated her for</p> <p>4 threatening an employee.</p> <p>5 A. "Threatening" is a general term. To what was</p> <p>6 stated specifically -- I don't know if I can answer</p> <p>7 your question specifically whether she threatened</p> <p>8 her.</p> <p>9 Q. Well, let's try this.</p> <p>10 The harassment policy at Southwest Airlines</p> <p>11 prohibits an employee in the workplace from</p> <p>12 threatening another employee.</p> <p>13 Do you understand that?</p> <p>14 A. Yes.</p> <p>15 Q. And there was a complaint by Ms. Stone. Did</p> <p>16 you conclude that, in fact, Ms. Carter threatened</p> <p>17 Ms. Stone and fired her for it?</p> <p>18 A. There were many things that I terminated her</p> <p>19 for, not specifically that one that stands out. I</p> <p>20 didn't put that in the letter specifically.</p> <p>21 Q. Oh. So you did fire her for that, you just</p> <p>22 didn't put it in the letter, is that fair?</p> <p>23 A. No, that's not what I said.</p> <p>24 Q. Well, then did you conclude it or not, sir?</p> <p>25 That was part of your investigation, that was</p>
<p style="text-align: right;">Page 1016</p> <p>1 part of the charge. Did you fire her for</p> <p>2 threatening Ms. Stone?</p> <p>3 A. Not specifically.</p> <p>4 Q. Generally. Did you fire her for threatening</p> <p>5 Ms. Stone?</p> <p>6 A. I fired her for violation of those policies.</p> <p>7 MR. PRYOR: Objection, nonresponsive.</p> <p>8 THE WITNESS: So if you are trying to say</p> <p>9 that I fired her for threatening, I can't say yes</p> <p>10 because I can't recall specific --</p> <p>11 BY MR. PRYOR:</p> <p>12 Q. You can't recall whether or not you concluded</p> <p>13 she threatened, and you fired her for threatening?</p> <p>14 Is that what you are telling us?</p> <p>15 You may or may not have fired Ms. Carter for</p> <p>16 threatening Ms. Stone?</p> <p>17 A. That was part of the investigation is what I'm</p> <p>18 saying, are the comments that were made. They may</p> <p>19 have been deemed as threatening, but I fired her for</p> <p>20 violation of those policies.</p> <p>21 You are asking me if I fired her for</p> <p>22 threatening.</p> <p>23 Q. I am.</p> <p>24 A. So no, not specifically.</p> <p>25 Q. Well, you keep saying "not specifically," and I</p>	<p style="text-align: right;">Page 1017</p> <p>1 say, what does that mean, "not specifically"?</p> <p>2 Is this just some way not to answer?</p> <p>3 Did you generally fire her for threatening</p> <p>4 Ms. Stone --</p> <p>5 MR. GREENFIELD: Objection --</p> <p>6 BY MR. PRYOR:</p> <p>7 Q. -- generally, specifically, whatever phrase you</p> <p>8 want to use.</p> <p>9 MR. GREENFIELD: Objection.</p> <p>10 MR. McKEEBY: Objection, asked and</p> <p>11 answered.</p> <p>12 THE COURT: I will allow it.</p> <p>13 BY MR. PRYOR:</p> <p>14 Q. Go ahead.</p> <p>15 A. No.</p> <p>16 Q. Okay. Wow. Why did it take so long to get</p> <p>17 there? I asked you four or five times.</p> <p>18 MR. GREENFIELD: Objection, argumentative.</p> <p>19 MR. McKEEBY: Objection, your Honor.</p> <p>20 THE COURT: Sustained.</p> <p>21 BY MR. PRYOR:</p> <p>22 Q. Sir, did I ask you that question over and over</p> <p>23 and over and you would not answer?</p> <p>24 MR. McKEEBY: Objection, argumentative.</p> <p>25 MR. GREENFIELD: Same objection, your</p>

<p style="text-align: right;">Page 1018</p> <p>1 Honor.</p> <p>2 THE COURT: Sustained.</p> <p>3 Counsel, you got your answer. Next</p> <p>4 question.</p> <p>5 BY MR. PRYOR:</p> <p>6 Q. All right. So at least at the end of the day,</p> <p>7 we know that you did not fire Ms. Carter for</p> <p>8 threatening Ms. Stone.</p> <p>9 A. Correct.</p> <p>10 Q. Let's go to -- by the way, are you on Facebook</p> <p>11 Messenger?</p> <p>12 A. No.</p> <p>13 Q. In 2017, were you on Facebook Messenger?</p> <p>14 A. No.</p> <p>15 Q. Do you know how Facebook Messenger works?</p> <p>16 A. Through the investigation, yes, I learned quite</p> <p>17 a bit about Facebook.</p> <p>18 Q. I couldn't understand your answer.</p> <p>19 A. Yes, through the investigation, I learned quite</p> <p>20 a bit about Facebook.</p> <p>21 Q. Okay. Good.</p> <p>22 So you learned that Facebook Messenger, when</p> <p>23 you open it up, only plays a video if you ask it to?</p> <p>24 Or did you not?</p> <p>25 A. If you ask it to or if you --</p>	<p style="text-align: right;">Page 1019</p> <p>1 Q. You have to click on it.</p> <p>2 A. If you click on it, yes.</p> <p>3 Q. Okay.</p> <p>4 So we can agree that a video sent by Facebook</p> <p>5 manager [sic], when you open it up, you can see the</p> <p>6 message, you can see whatever the beginning picture</p> <p>7 of the video is, but that video is not going to play</p> <p>8 unless you click on it, true?</p> <p>9 A. I don't recall if it starts right away when you</p> <p>10 open up Facebook or not. I can't say that</p> <p>11 specifically.</p> <p>12 Q. I thought you just told us that Facebook</p> <p>13 Messenger only plays a video after you click on it.</p> <p>14 You are now saying something different?</p> <p>15 That was 20 seconds ago.</p> <p>16 A. Some videos that I have seen -- I don't know if</p> <p>17 Facebook is this way -- you open -- you open it up</p> <p>18 and it starts playing.</p> <p>19 I don't know if Facebook specifically has to be</p> <p>20 clicked on. I know that some pictures -- I don't</p> <p>21 use it enough to know this right offhand.</p> <p>22 Q. You raised a whole host of issues now.</p> <p>23 So before when you said it only plays when you</p> <p>24 click on it, what did you mean?</p> <p>25 MR. McKEEBY: Objection, mischaracterizes</p>
<p style="text-align: right;">Page 1020</p> <p>1 testimony. That's not what he said.</p> <p>2 THE COURT: I will allow it.</p> <p>3 THE WITNESS: There are versions that you</p> <p>4 have to click on, yes.</p> <p>5 BY MR. PRYOR:</p> <p>6 Q. Is there a version of Facebook Messenger that</p> <p>7 the algorithm allows it to play without you clicking</p> <p>8 on it, to your knowledge?</p> <p>9 A. I'm saying I do not know that for sure.</p> <p>10 Q. Well, did you know it in 2017 when you made</p> <p>11 your decision to terminate Ms. Carter?</p> <p>12 A. If I recall, those messages needed to be</p> <p>13 clicked on.</p> <p>14 Q. Okay. So when you investigated Ms. Carter, one</p> <p>15 of your conclusions was that video is only going to</p> <p>16 play if Ms. Stone clicks on it, true?</p> <p>17 A. True.</p> <p>18 Q. Do you know whether or not this Facebook page</p> <p>19 was a Facebook page dedicated to Audrey Stone, TWU?</p> <p>20 A. I know it was Audrey Stone's Facebook page.</p> <p>21 That is what I know.</p> <p>22 Q. I'm sorry?</p> <p>23 A. I know it is Audrey Stone's Facebook page. I</p> <p>24 do not know for sure that it was associated with TWU</p> <p>25 or whatever you just said.</p>	<p style="text-align: right;">Page 1021</p> <p>1 Q. When you say you don't know for sure it was</p> <p>2 Audrey Stone, TWU, does that mean you were aware of</p> <p>3 it and unsure, or this is new information?</p> <p>4 A. I don't know the question. I'm not following</p> <p>5 you on that somehow.</p> <p>6 Q. Here we go.</p> <p>7 Did you know at the time you investigated</p> <p>8 Ms. Carter whether or not the Facebook page she sent</p> <p>9 the message to was a Facebook page dedicated to</p> <p>10 Audrey Stone, TWU?</p> <p>11 Did you know that?</p> <p>12 A. No.</p> <p>13 Q. Would it have been important to you?</p> <p>14 A. No.</p> <p>15 Q. No. Because it doesn't matter to you if it</p> <p>16 involves union activity, right?</p> <p>17 MR. McKEEBY: Object to the form of the</p> <p>18 question. Again the vagueness.</p> <p>19 THE COURT: I will allow it.</p> <p>20 BY MR. PRYOR:</p> <p>21 Q. It didn't matter.</p> <p>22 A. It mattered that it was Audrey Stone's Facebook</p> <p>23 page.</p> <p>24 Q. Okay. That wasn't my question, was it, sir?</p> <p>25 Why don't you answer what I ask you instead of</p>

<p style="text-align: right;">Page 1022</p> <p>1 what you want to say?</p> <p>2 MR. GREENFIELD: Objection, your Honor,</p> <p>3 sidebars.</p> <p>4 MR. PRYOR: He continuously is not</p> <p>5 answering the question. I'm entitled to ask him why</p> <p>6 he's not, your Honor.</p> <p>7 MR. GREENFIELD: Objection, your Honor,</p> <p>8 and I move to strike.</p> <p>9 THE COURT: I will strike that.</p> <p>10 You can ask the question. You can ask</p> <p>11 your question.</p> <p>12 BY MR. PRYOR:</p> <p>13 Q. Sir, that's not what I asked you.</p> <p>14 I asked you whether or not it was important to</p> <p>15 you that it was an Audrey Stone, TWU, Facebook page</p> <p>16 or not, not if it was important that it was an</p> <p>17 Audrey Stone Facebook page.</p> <p>18 You got the difference now? Do you understand?</p> <p>19 A. No.</p> <p>20 Q. You don't understand.</p> <p>21 A. You asked me two questions. I'm answering the</p> <p>22 first one that said if it mattered to me.</p> <p>23 Q. If you will just answer what I'm asking, we</p> <p>24 won't have to go back and forth.</p> <p>25 MR. McKEEBY: Objection.</p>	<p style="text-align: right;">Page 1023</p> <p>1 MR. GREENFIELD: Objection, your Honor.</p> <p>2 The sidebars continue.</p> <p>3 THE COURT: Sustained.</p> <p>4 I don't think he knows the foundation. I</p> <p>5 think you've got to set the foundation. I don't</p> <p>6 think he knows the foundation.</p> <p>7 MR. PRYOR: Okay. May I approach?</p> <p>8 THE COURT: You may.</p> <p>9 (Thereupon, the following proceedings were</p> <p>10 had at sidebar:)</p> <p>11 MR. PRYOR: If I'm being chastised, I want</p> <p>12 to know. I'm sorry.</p> <p>13 THE COURT: I will wait for that.</p> <p>14 MR. PRYOR: I'll fix it.</p> <p>15 THE COURT: I don't know that he knows she</p> <p>16 has two separate Facebook accounts, one listed TWU</p> <p>17 that is Union, and one that is personal. We covered</p> <p>18 that with Stone.</p> <p>19 MR. PRYOR: Fair enough. We did.</p> <p>20 THE COURT: We haven't covered that with</p> <p>21 him yet. So he might not know, or he might have</p> <p>22 forgotten, since 2017.</p> <p>23 MR. GREENFIELD: Your Honor, continued</p> <p>24 sidebars. It is after every question, it is after</p> <p>25 every comment. He will not stop.</p>
<p style="text-align: right;">Page 1024</p> <p>1 THE COURT: And that's why I want to get</p> <p>2 him on to --</p> <p>3 MR. PRYOR: I shall.</p> <p>4 THE COURT: Right now we are not</p> <p>5 communicating together, and that's why I'm not ready</p> <p>6 to let the record reflect that he's a liar, because</p> <p>7 I think that there is a miscommunication.</p> <p>8 MR. PRYOR: Okay. Well, I'm --</p> <p>9 THE COURT: I'm trying to point out what</p> <p>10 our communication is. We haven't told him there are</p> <p>11 two, like a TWU and a personal.</p> <p>12 If you clear that up, he's probably not</p> <p>13 going to be evasive. Got it?</p> <p>14 MR. PRYOR: Yes, sir.</p> <p>15 (Thereupon, the sidebar was concluded and</p> <p>16 the following proceedings were held in open</p> <p>17 court:)</p> <p>18 THE COURT: Okay. You can set that</p> <p>19 predicate we talked about.</p> <p>20 MR. PRYOR: Let's see if we can clear this</p> <p>21 up.</p> <p>22 BY MR. PRYOR:</p> <p>23 Q. The Facebook page that Ms. Carter sent her</p> <p>24 Facebook messages to, what was the name, the full</p> <p>25 name on that Facebook page, to your knowledge?</p>	<p style="text-align: right;">Page 1025</p> <p>1 A. Audrey Stone.</p> <p>2 Q. If, in fact, it was Audrey Stone, TWU, would</p> <p>3 that have impacted your investigation and</p> <p>4 conclusions?</p> <p>5 A. No.</p> <p>6 Q. Okay. So it didn't matter if it was sent to --</p> <p>7 intended to be sent to her union president, true?</p> <p>8 A. No.</p> <p>9 Q. In fact, Ms. Carter told you she was sending it</p> <p>10 to her union president, that that is why she was</p> <p>11 sending it, true?</p> <p>12 A. I don't know if she said that specifically. I</p> <p>13 don't remember that.</p> <p>14 Q. When we go through the interview notes that you</p> <p>15 took, are you going to be surprised to see that?</p> <p>16 A. I'm saying I just didn't recall that it said</p> <p>17 that specifically. It may have.</p> <p>18 Q. Do you know whether or not the message was sent</p> <p>19 to a public or private Facebook message account?</p> <p>20 A. It was private.</p> <p>21 Q. What does that mean?</p> <p>22 A. That the public can't see it. It's to a</p> <p>23 specific person.</p> <p>24 Q. So you know that it was sent to the Union</p> <p>25 president, true?</p>

<p style="text-align: right;">Page 1026</p> <p>1 A. It was sent to Audrey Stone.</p> <p>2 Q. Audrey Stone was the Union president, true?</p> <p>3 A. Yes.</p> <p>4 Q. You know that union activity is being talked</p> <p>5 about, true?</p> <p>6 A. Yes.</p> <p>7 Q. So let me go with my question again.</p> <p>8 Is it accurate to say that Charlene Carter sent</p> <p>9 her message to Audrey Stone, who was also the</p> <p>10 president of the Local 556?</p> <p>11 A. Yes.</p> <p>12 Q. And so she sent this message to her president</p> <p>13 and she sent it in a manner in which only the</p> <p>14 president could see it, true?</p> <p>15 A. Yes.</p> <p>16 Q. And the only way that president could view that</p> <p>17 message, or at least the video, was to click on it?</p> <p>18 A. Yes.</p> <p>19 Q. By the way, she could have made it public,</p> <p>20 couldn't she?</p> <p>21 A. The message?</p> <p>22 Q. When you are sending something to someone's</p> <p>23 Facebook message account, you get to decide --</p> <p>24 actually both places -- you certainly have a role in</p> <p>25 whether or not it is going to be public or private,</p>	<p style="text-align: right;">Page 1027</p> <p>1 true?</p> <p>2 A. I don't know it that well to say that.</p> <p>3 Q. So if a union member sends a Facebook message</p> <p>4 to their union president and says, You are a</p> <p>5 terrible candidate, you suck, to you, that violates</p> <p>6 Southwest policy, true?</p> <p>7 A. I wouldn't necessarily say that.</p> <p>8 Q. Why not? You said it doesn't matter if it went</p> <p>9 to the Union president.</p> <p>10 Can employees tell other employees, You suck,</p> <p>11 and Southwest say, Oh, that's okay?</p> <p>12 I can be more violent if you want me to. How</p> <p>13 far do I have to go?</p> <p>14 A. The egregiousness of the message is taken into</p> <p>15 consideration.</p> <p>16 Q. So would "You suck" -- one employee sends a</p> <p>17 message to another employee saying, "You suck,"</p> <p>18 would that violate policy?</p> <p>19 A. If that happened, the employee would have to</p> <p>20 turn that in and we would conduct an investigation</p> <p>21 on it.</p> <p>22 Q. It may or may not be found guilty of policy?</p> <p>23 A. Correct.</p> <p>24 Q. And the more severe the language, the more</p> <p>25 likely it is to be a violation, I would assume?</p>
<p style="text-align: right;">Page 1028</p> <p>1 A. You can assume that, yes.</p> <p>2 Q. So let's go back to my example then.</p> <p>3 A union member sends a communication to her</p> <p>4 union president, uses some vile language, "you</p> <p>5 suck," however much you want to escalate that, and</p> <p>6 that's a violation of Southwest policy?</p> <p>7 A. It would be investigated.</p> <p>8 Q. And depending on how vile the language is, it</p> <p>9 could be a violation?</p> <p>10 A. It could be, yes.</p> <p>11 Q. You terminated Ms. Carter for sending the</p> <p>12 abortion video and the comments associated with it</p> <p>13 to Ms. Stone. That's one of the reasons, true?</p> <p>14 A. Along with others, yes.</p> <p>15 Q. I said "one of the reasons." You understand</p> <p>16 what "one" is?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Another reason was the Facebook message</p> <p>19 post that had the pictures with the anatomically</p> <p>20 correct vagina hats, true?</p> <p>21 A. Yes.</p> <p>22 Q. And the third reason is she posted an abortion</p> <p>23 video on her public personal Facebook account which</p> <p>24 you determined to have a nexus to Southwest</p> <p>25 Airlines, true?</p>	<p style="text-align: right;">Page 1029</p> <p>1 A. Yes.</p> <p>2 Q. Any other reason?</p> <p>3 A. There were statements made in the letter that</p> <p>4 referred to our social media policy and bullying and</p> <p>5 hazing policy, and possibly the harassment policy</p> <p>6 due to the female genitalia.</p> <p>7 Q. So what was actually concluded is it was</p> <p>8 possibly a violation, but it wasn't determined to be</p> <p>9 a violation, right?</p> <p>10 MR. McKEEBY: Objection, vague.</p> <p>11 MR. PRYOR: Just repeating what he said.</p> <p>12 THE COURT: I will allow it.</p> <p>13 THE WITNESS: It was determined to be a</p> <p>14 violation of that.</p> <p>15 BY MR. PRYOR:</p> <p>16 Q. It was not determined to be a violation, it was</p> <p>17 determined that it could have been, but that wasn't</p> <p>18 the reason for the termination, is that fair?</p> <p>19 A. Correct, yes.</p> <p>20 Q. Okay. So let's go back.</p> <p>21 We've got these three reasons here that but for</p> <p>22 these three, she would not have been terminated</p> <p>23 based on the conclusions of that investigation,</p> <p>24 true?</p> <p>25 A. That is a possibility.</p>

<p style="text-align: right;">Page 1030</p> <p>1 Q. Not a possibility, sir. I'm asking, isn't that 2 true? 3 A. If you take out all three of them, is that the 4 question? 5 Q. Yes. 6 A. Yes, if you take out all three of them, then 7 most likely not terminated. 8 Q. Not even most likely. She wouldn't have been 9 terminated because those were the only conclusions. 10 Why do you have a problem agreeing with that? 11 A. I'm agreeing with it. 12 Q. Okay. "Most likely" and "possibly," that's not 13 agreeing, that's hedging. 14 MR. McKEEBY: Objection. 15 BY MR. PRYOR: 16 Q. So I would appreciate you -- 17 MR. GREENFIELD: Objection, your Honor, to 18 the sidebars. 19 THE COURT: Sustained. I will strike it. 20 You can ask your question. 21 BY MR. PRYOR: 22 Q. So these are the three reasons that she was 23 terminated, and without those three, she would not 24 have been terminated, true? 25 A. Yes.</p>	<p style="text-align: right;">Page 1031</p> <p>1 Q. Okay. 2 MR. PRYOR: Let's look at exhibit -- I 3 think it is 62. It's actually Exhibit 68. 4 Let me look at the next page and see if 5 there is anything else. 6 Actually, let me talk about the last 7 paragraph of Exhibit 66. 8 BY MR. PRYOR: 9 Q. I can read it. 10 "I am personally pro choice, and to be sent 11 messages that reference me as a murderer couldn't be 12 further from the truth." 13 Do you see that? 14 A. Yes, I do. 15 Q. Did it matter to your investigation whether or 16 not Ms. Stone was pro choice? 17 A. No. 18 Q. Ms. Carter was complaining about the way her 19 union was spending money, true? 20 A. She made that complaint. 21 Q. And she wasn't complaining or it didn't matter 22 whether or not Ms. Stone was pro choice or pro life, 23 true? 24 A. Ms. Carter stated that she did not know what 25 Audrey Stone was.</p>
<p style="text-align: right;">Page 1032</p> <p>1 Q. I didn't ask that. I said it didn't matter. 2 You just told us it didn't matter. 3 A. Can you restate the question then? 4 Q. It didn't matter to your investigation whether 5 or not Ms. Stone was pro choice or pro life? 6 A. No. 7 Q. And the reason is because Ms. Carter was 8 complaining about her union, not about Ms. Stone, 9 true? It didn't involve Ms. Stone's personal views. 10 A. From what I remember, she was complaining about 11 both, Ms. Stone and the Union. 12 Q. What was she complaining about Ms. Stone? 13 Oh, her not being a good president of the 14 Union? Yes? 15 A. Among other things. 16 Q. Okay. What other thing? 17 A. She didn't think she was using -- I mean, she 18 thought that the pro march -- or the march in 19 Washington was not used -- the money was used in a 20 wrong way. 21 Q. So once again, every complaint she's making is 22 about her union or the actions of her union 23 president, true? That you are aware of. 24 A. Yes. 25 Q. So it's union activity she's complaining about,</p>	<p style="text-align: right;">Page 1033</p> <p>1 not Ms. Stone personally, about the things she's 2 doing as president of the Union, true? 3 MR. McKEEBY: Object to 4 mischaracterization. 5 THE COURT: I will allow it. 6 BY MR. PRYOR: 7 Q. That's what you just told us. 8 A. Say it one more time. 9 I want to make sure I get your questions 10 correct. I'm not intentionally trying to be 11 evasive. I'm just trying to understand the 12 questions when you say them. 13 Q. I'm taking the answer you just gave us, sir, 14 and I will try it again. 15 A. Okay. 16 Q. Isn't it correct that all of Ms. Carter's 17 complaints that you reviewed as part of your 18 investigation involved her complaints about her 19 union or her union president and how she was doing 20 her job? 21 A. You say "all," and not all of them -- 22 Q. Every single one is what I'm saying, not an 23 exception at all. 24 If you know of an exception, we are going to 25 talk about it.</p>

<p style="text-align: right;">Page 1034</p> <p>1 A. Yes.</p> <p>2 Q. Okay. What is the exception?</p> <p>3 A. You just asked me a question if everything</p> <p>4 was --</p> <p>5 Q. You're agreeing with my -- okay.</p> <p>6 A. You are confusing me.</p> <p>7 Q. I'm asking the positive or negative.</p> <p>8 Are you agreeing that every single complaint</p> <p>9 that Ms. Carter made in the messages that she sent</p> <p>10 to Ms. Stone that were part of your investigation</p> <p>11 involved her complaints about the Union or the</p> <p>12 activities of Ms. Stone as the president of the</p> <p>13 Union? Do you agree with that?</p> <p>14 A. I would say she was making those complaints</p> <p>15 about the Union and Audrey Stone personally.</p> <p>16 Q. Okay. What personal aspect of Ms. Stone,</p> <p>17 outside of her being president, do you recall her</p> <p>18 making?</p> <p>19 Saying "You're corrupt," she's talking about</p> <p>20 her corruption as Union president.</p> <p>21 Saying, "I think you are doing a lousy job" is</p> <p>22 talking about her being Union president.</p> <p>23 MR. GREENFIELD: Objection.</p> <p>24 MR. McKEEBY: Objection, your Honor.</p> <p>25 MR. GREENFIELD: Objection. He's</p>	<p style="text-align: right;">Page 1035</p> <p>1 continuing to testify.</p> <p>2 THE COURT: Sustained.</p> <p>3 BY MR. PRYOR:</p> <p>4 Q. Can you recall -- I'll rephrase.</p> <p>5 Can you recall any part of your investigation</p> <p>6 that revealed a comment to Ms. Stone whether --</p> <p>7 about her or the Union that could be separated and</p> <p>8 say, You know, that's talking about Audrey Stone</p> <p>9 outside her job as Union president.</p> <p>10 Can you think of something like that?</p> <p>11 A. No.</p> <p>12 Q. So the only thing you know of is complaints</p> <p>13 about Ms. Stone as Union president, in that context?</p> <p>14 A. From only the complaints, yes.</p> <p>15 Q. And you reviewed this stuff Friday?</p> <p>16 MR. McKEEBY: Objection, vague. I don't</p> <p>17 know what "this stuff" means.</p> <p>18 THE COURT: Sure. You can ask it again.</p> <p>19 Clear it up what you mean by "this stuff."</p> <p>20 MR. PRYOR: Rephrase.</p> <p>21 THE COURT: Yes.</p> <p>22 BY MR. PRYOR:</p> <p>23 Q. You reviewed the documents relating to your</p> <p>24 investigation as recently as Friday, right?</p> <p>25 A. Yes, some of them.</p>
<p style="text-align: right;">Page 1036</p> <p>1 Q. And so you've looked at all of this, and so you</p> <p>2 know it all relates to complaints about Ms. Stone as</p> <p>3 president or complaints about the Union, right?</p> <p>4 A. See, I interpret them differently. They all</p> <p>5 reflect the Union, but they also kind of reflect</p> <p>6 Ms. Stone also personally.</p> <p>7 Q. Tell us the ones that somehow are to Ms. Stone</p> <p>8 unassociated with her role as president.</p> <p>9 A. I don't know specific ones right now offhand.</p> <p>10 Q. Okay. Well, when you reviewed it on Friday,</p> <p>11 you saw some, right?</p> <p>12 A. I don't remember reviewing that document</p> <p>13 specifically where she made those complaints.</p> <p>14 I reviewed a lot of different things. I tried</p> <p>15 to remember everything.</p> <p>16 What I'm saying is that I don't remember every</p> <p>17 detail.</p> <p>18 Q. We will go through the documents.</p> <p>19 On the three, on the three categories of</p> <p>20 documents that you terminated Ms. Carter for and</p> <p>21 would not have terminated her or taken action</p> <p>22 otherwise -- you got the question so far?</p> <p>23 A. Yes.</p> <p>24 Q. None of those three involved any personal</p> <p>25 attack on Ms. Stone; they all involved her role as</p>	<p style="text-align: right;">Page 1037</p> <p>1 president of the Union, true?</p> <p>2 A. As I stated, it depends on how you take those</p> <p>3 accusations. They could be referred to her</p> <p>4 personally, they could be referred to the Union</p> <p>5 only. It's how you interpret them.</p> <p>6 Q. Sir, does Southwest Airlines afford any</p> <p>7 protection to a union member engaging in</p> <p>8 union-activity communications, any at all?</p> <p>9 A. We protect all of our employees.</p> <p>10 Q. How do you protect an employee communicating</p> <p>11 with her union president?</p> <p>12 MR. McKEEBY: Objection, vague.</p> <p>13 THE COURT: I will allow it.</p> <p>14 THE WITNESS: It just depends on what is</p> <p>15 stated. If it's something that is egregious enough</p> <p>16 that we would look into it and it was brought</p> <p>17 forward to us.</p> <p>18 BY MR. PRYOR:</p> <p>19 Q. So any statement that you see that you believe</p> <p>20 violates Southwest policy you take action on?</p> <p>21 A. Yes.</p> <p>22 Q. There is no protection from any interpretation</p> <p>23 of Southwest's policy in regard to those actions?</p> <p>24 MR. McKEEBY: Objection, vague.</p> <p>25</p>

<p style="text-align: right;">Page 1038</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. They are not protected. There is no special</p> <p>3 class for union activity. That's crazy, right?</p> <p>4 MR. McKEEBY: Objection, vague and</p> <p>5 compound.</p> <p>6 THE COURT: I will sustain on compound.</p> <p>7 BY MR. PRYOR:</p> <p>8 Q. Do you find it ironic that the Union is here</p> <p>9 fighting against protecting union activity, union</p> <p>10 communications, and Ms. Carter is not --</p> <p>11 MR. GREENFIELD: Objection, your Honor,</p> <p>12 sidebars. He's making argument again. I would ask</p> <p>13 that you instruct him to stop this.</p> <p>14 THE COURT: Sustained.</p> <p>15 MR. PRYOR: I will withdraw it.</p> <p>16 Okay. Going back to Exhibit 66.</p> <p>17 All right. Let's go to the next page.</p> <p>18 Let's see if there is anything else on there.</p> <p>19 Okay, just scroll down.</p> <p>20 I know this is not instantaneous to do</p> <p>21 this. I appreciate it. I just want everything to</p> <p>22 happen like that.</p> <p>23 Go to the next page.</p> <p>24 Okay. I want to read this.</p> <p>25</p>	<p style="text-align: right;">Page 1039</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. This is from -- this is one of the -- we've</p> <p>3 been using the phrase "buckets," by the way. I'm</p> <p>4 going to use this.</p> <p>5 We've got three buckets. One bucket that you</p> <p>6 fired her for is this communication, true?</p> <p>7 A. You have to be more specific. I don't know</p> <p>8 what "this communication" is. This particular page?</p> <p>9 Q. I'm showing it to you right now.</p> <p>10 This is the communication that was sent by</p> <p>11 Ms. Carter to Ms. Stone on her Facebook Messenger,</p> <p>12 which we say was Audrey Stone, TWU, but that doesn't</p> <p>13 matter to you, so we won't bother with that.</p> <p>14 This is one of the three things you terminated</p> <p>15 Ms. Carter for, this communication right here.</p> <p>16 MR. McKEEBY: Objection, mischaracterizes</p> <p>17 evidence.</p> <p>18 MR. PRYOR: I'm sorry?</p> <p>19 THE COURT: I will allow it.</p> <p>20 THE WITNESS: Yes.</p> <p>21 BY MR. PRYOR:</p> <p>22 Q. Okay. And it says, "This is what you supported</p> <p>23 during your paid leave with others at the Women's</p> <p>24 March in DC. You are truly despicable in so many</p> <p>25 ways. By the way, the recall is going to happen."</p>
<p style="text-align: right;">Page 1040</p> <p>1 Let's just stop right there.</p> <p>2 So "the recall is going to happen."</p> <p>3 Was she referring to recalling Audrey Stone as</p> <p>4 an individual from something?</p> <p>5 Is there any way to say, oh, you are talking</p> <p>6 about Audrey Stone in an individual hat, or is this</p> <p>7 clearly talking about Audrey Stone with her</p> <p>8 president of the Union hat on?</p> <p>9 A. I believe it's president.</p> <p>10 Q. Okay. So this communication we know was</p> <p>11 referring to Audrey Stone as president of the Union.</p> <p>12 Fair enough?</p> <p>13 A. It refers to the recall of the president, yes.</p> <p>14 Q. Okay.</p> <p>15 "Can't wait to see you back online."</p> <p>16 That's the portion that I think you eventually</p> <p>17 agreed concluded was not a threat, right?</p> <p>18 A. I never concluded that completely. It's what</p> <p>19 she said in the fact-finding.</p> <p>20 Q. Well, let's state it that way.</p> <p>21 You did not conclude that that was a threat and</p> <p>22 you did not fire her because of making a threat. Is</p> <p>23 that fair?</p> <p>24 A. Yes.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">Page 1041</p> <p>1 All right. So let's go to the next page.</p> <p>2 By the way, would you agree with me that</p> <p>3 Ms. Carter is complaining about her union and how</p> <p>4 they are spending her money on something she thinks</p> <p>5 is murder? Do you agree with that?</p> <p>6 A. Yes.</p> <p>7 Q. Do you want to look at it again?</p> <p>8 MR. GREENFIELD: He answered the question.</p> <p>9 BY MR. PRYOR:</p> <p>10 Q. What was of the answer?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Let's look at the next document.</p> <p>13 And it starts out, "TWU, AFL-CIO, and 556 are</p> <p>14 supporting this murder."</p> <p>15 Would you agree this is talking about her</p> <p>16 complaining about her union?</p> <p>17 A. Yes.</p> <p>18 Q. And do you see anything personal to Ms. Stone</p> <p>19 outside of complaints about the union?</p> <p>20 A. On that sentence, no.</p> <p>21 Q. Okay. So this is Bucket 2. This is the second</p> <p>22 of the three reasons that you terminated Ms. Carter.</p> <p>23 And this again is specifically involving complaints</p> <p>24 about the Union or Audrey Stone as Union president,</p> <p>25 not individually. True?</p>

<p style="text-align: right;">Page 1042</p> <p>1 A. Yes.</p> <p>2 Q. Okay. Then let's go to -- I don't know if it</p> <p>3 is going to be -- she, by the way -- when she -- you</p> <p>4 can take that off.</p> <p>5 When she made her complaint, Ms. Stone, she --</p> <p>6 that's all she included that she sent you. In that</p> <p>7 February 22nd, 2017 complaint, that's all she</p> <p>8 complained about, right?</p> <p>9 A. At the time, yes.</p> <p>10 Q. Oh, did she change her complaint?</p> <p>11 A. We interviewed her.</p> <p>12 Q. I'm not talking about "we."</p> <p>13 Did Ms. Stone broaden at any time her</p> <p>14 complaint? Did she say, Now I want you to terminate</p> <p>15 her for this document? Anything like that?</p> <p>16 A. Not that I'm aware of.</p> <p>17 Q. Forget any words.</p> <p>18 Did she broaden her complaint in any way or did</p> <p>19 you broaden it?</p> <p>20 A. I don't understand the question because</p> <p>21 you're --</p> <p>22 Q. Here is the question. We got a third bucket</p> <p>23 coming up as the reason you terminated her, and that</p> <p>24 is the anatomically correct hats, right? That's the</p> <p>25 third bucket.</p>	<p style="text-align: right;">Page 1043</p> <p>1 A. Okay.</p> <p>2 Q. I'm not looking for an okay, I'm looking for an</p> <p>3 agreement. Is that a yes?</p> <p>4 A. Yes.</p> <p>5 Q. Yes.</p> <p>6 And Ms. Stone was not making a complaint about</p> <p>7 that communication, nor did she ever, true?</p> <p>8 A. True, outside of just supplying the pictures of</p> <p>9 it.</p> <p>10 Q. There is no "outside of."</p> <p>11 You asked her to supply all communications with</p> <p>12 Ms. Carter, true?</p> <p>13 A. Yes.</p> <p>14 Q. And included in that communication, a list of</p> <p>15 that packet of communications, her complying with</p> <p>16 your request, was that message with that picture,</p> <p>17 true?</p> <p>18 A. Yes.</p> <p>19 Q. And you decided that was a violation, true?</p> <p>20 A. Our employee relations department did, yes.</p> <p>21 Q. That's right.</p> <p>22 Actually, you didn't conclude that, did you,</p> <p>23 the employee relations department did.</p> <p>24 A. Yes.</p> <p>25 Q. And, in fact, you concluded that those first</p>
<p style="text-align: right;">Page 1044</p> <p>1 two buckets violated the harassment policy, didn't</p> <p>2 you?</p> <p>3 A. What are the buckets again?</p> <p>4 Q. The buckets are the two videos that show the</p> <p>5 aborted fetus.</p> <p>6 A. Just those two. Okay. I didn't know what --</p> <p>7 Q. You thought that was harassment, but, in fact,</p> <p>8 employee relations had to tell you, no, it is not,</p> <p>9 true?</p> <p>10 A. I only sent it as a possible violation. They</p> <p>11 determined whether it was or not through the</p> <p>12 investigation.</p> <p>13 Q. They told you it was not, true?</p> <p>14 A. The pictures and video of the unborn fetuses</p> <p>15 were determined not to be because it didn't violate</p> <p>16 any of the classes.</p> <p>17 Q. That's right. Those two videos, employee</p> <p>18 relations specifically told you that does not</p> <p>19 violate the harassment policy of Southwest Airlines.</p> <p>20 Didn't they?</p> <p>21 A. Yes.</p> <p>22 Q. And nonetheless, you put in the letter that it</p> <p>23 possibly violated it, didn't you?</p> <p>24 A. No. You are missing part of her letter that</p> <p>25 she sent to me. She did say that it was partially</p>	<p style="text-align: right;">Page 1045</p> <p>1 supported as a violation because of the genitalia.</p> <p>2 Q. Okay. It is your testimony -- they put this in</p> <p>3 writing, you know. Have you seen it?</p> <p>4 A. What is in writing?</p> <p>5 Q. Employee relations responded in writing to you.</p> <p>6 A. Correct.</p> <p>7 Q. You reviewed it last week, right?</p> <p>8 MR. McKEEBY: Object to a question about a</p> <p>9 document that is not provided to the witness. He's</p> <p>10 testifying to its content. That's not proper.</p> <p>11 THE COURT: Sustained.</p> <p>12 BY MR. PRYOR:</p> <p>13 Q. Did employee relations tell you it was not a</p> <p>14 violation of Southwest Airlines's harassment policy?</p> <p>15 A. They indicated to me on the letter that you are</p> <p>16 referring to that it was a partial violation of the</p> <p>17 policy.</p> <p>18 Q. No, I'm asking about the two videos. I know</p> <p>19 what they concluded about the hats. We are now</p> <p>20 talking about the two videos.</p> <p>21 A. Okay.</p> <p>22 Q. They told you that did not violate Southwest</p> <p>23 Airlines's harassment policy, didn't they?</p> <p>24 A. Those two videos, yes.</p> <p>25 MR. PRYOR: Let's look at 65, maybe.</p>

<p style="text-align: right;">Page 1046</p> <p>1 Go to page -- I want to be clear about the</p> <p>2 question I was asking.</p> <p>3 BY MR. PRYOR:</p> <p>4 Q. What I'm talking about two videos, one of the</p> <p>5 videos was sent to Audrey Stone, we say TWU,</p> <p>6 Facebook Messenger, right?</p> <p>7 A. Yes.</p> <p>8 Q. And the other video wasn't sent there, it was</p> <p>9 posted on Charlene Carter's personal Facebook page?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Those are the two buckets, and then this</p> <p>12 picture right here is the third bucket?</p> <p>13 A. I'm sorry. To me, it seems like your buckets</p> <p>14 are changing. So I'm trying to keep your buckets --</p> <p>15 Q. Three buckets for why you told us you fired</p> <p>16 her.</p> <p>17 THE COURT: Hold on.</p> <p>18 Separation.</p> <p>19 Okay. Now you can go.</p> <p>20 BY MR. PRYOR:</p> <p>21 Q. Do we have to go through this again?</p> <p>22 I thought we agreed there are three buckets you</p> <p>23 fired her for. This is the third one.</p> <p>24 A. My understanding was that the buckets were the</p> <p>25 hazing and bullying policy, the social media policy,</p>	<p style="text-align: right;">Page 1047</p> <p>1 and possibly the harassment policy. I thought those</p> <p>2 were the three buckets that we started out with.</p> <p>3 And you were just talking about these within those.</p> <p>4 Q. I was asking you what you relied upon to find a</p> <p>5 violation of those policies, and you told me it was</p> <p>6 those three things. Without those three things you</p> <p>7 would not have terminated her.</p> <p>8 Do you recall telling me that?</p> <p>9 A. Okay.</p> <p>10 Q. Okay. So those are the three buckets I'm</p> <p>11 talking about. This is the third one which we</p> <p>12 haven't shown you yet, but now we are, true?</p> <p>13 A. Yes.</p> <p>14 Q. And this once again is talking about her</p> <p>15 complaints about the Union.</p> <p>16 "How are you going to code this an LM2? The</p> <p>17 recall is going to happen."</p> <p>18 Once again, there is nothing personal in this</p> <p>19 third bucket either about Ms. Stone, it's</p> <p>20 complaining about her union, and to the extent you</p> <p>21 would try and find anything about Ms. Stone, it</p> <p>22 would be about her activity as the president of that</p> <p>23 union, although I don't even see that.</p> <p>24 MR. McKEEBY: Objection, compound.</p> <p>25 Objection, argumentative.</p>
<p style="text-align: right;">Page 1048</p> <p>1 THE COURT: Sustained.</p> <p>2 MR. GREENFIELD: Objection, your Honor.</p> <p>3 He continues to testify. I would ask you to --</p> <p>4 THE COURT: You can break it up and reask</p> <p>5 the question.</p> <p>6 BY MR. PRYOR:</p> <p>7 Q. This third bucket relates exclusively to</p> <p>8 Ms. Carter's complaint about her union, true?</p> <p>9 A. Yes.</p> <p>10 MR. PRYOR: Let's scroll on until you get</p> <p>11 to get APP 88. See if you recognize this.</p> <p>12 It might help if you had a copy of this.</p> <p>13 Can I have 65?</p> <p>14 THE WITNESS: It's pretty large on here.</p> <p>15 BY MR. PRYOR:</p> <p>16 Q. I'm sorry?</p> <p>17 A. It's pretty large on here as far as seeing it.</p> <p>18 Q. It's what?</p> <p>19 A. I can see it.</p> <p>20 Q. Well, I didn't know if you wanted to see the</p> <p>21 whole thing.</p> <p>22 This was part of the communications that you</p> <p>23 looked at?</p> <p>24 A. It was given to me, yes. Yes.</p> <p>25 Q. Okay. And did you fire her for this</p>	<p style="text-align: right;">Page 1049</p> <p>1 communication?</p> <p>2 A. No.</p> <p>3 Q. Did you take any action at all against her or</p> <p>4 consider this as part of the reason for terminating</p> <p>5 her?</p> <p>6 A. No.</p> <p>7 Q. Do you believe it's appropriate for a union</p> <p>8 member to talk to her union president about her</p> <p>9 complaints about Planned Parenthood in this context?</p> <p>10 It is okay for her to do that, right?</p> <p>11 A. To complain to the union about Planned</p> <p>12 Parenthood, is that the question you are asking me?</p> <p>13 Q. Yes. So what Ms. Carter is doing is she is</p> <p>14 complaining about that they went to this march</p> <p>15 sponsored by Planned Parenthood.</p> <p>16 You knew that. She told you that.</p> <p>17 A. I didn't know that it was supported by Planned</p> <p>18 Parenthood. She made the statement in the meeting,</p> <p>19 but everything I saw was that it was a women's march</p> <p>20 supporting women's rights.</p> <p>21 Q. You didn't know that it was sponsored by</p> <p>22 Planned Parenthood?</p> <p>23 A. Ms. Carter said that in the fact-finding.</p> <p>24 Q. That's what I'm asking. You knew her complaint</p> <p>25 was it was a march supported by Planned Parenthood,</p>

<p style="text-align: right;">Page 1050</p> <p>1 true?</p> <p>2 A. Yes.</p> <p>3 Q. And she wanted to communicate her concerns</p> <p>4 about Planned Parenthood to her union, true?</p> <p>5 A. True.</p> <p>6 Q. And are you complaining in any way that she did</p> <p>7 that by, for instance, this document right here?</p> <p>8 A. No.</p> <p>9 Q. Do you know what eugenics is?</p> <p>10 A. No.</p> <p>11 Q. You didn't look into that?</p> <p>12 MR. McKEEBY: Asked and answered.</p> <p>13 Objection.</p> <p>14 BY MR. PRYOR:</p> <p>15 Q. Did you look into --</p> <p>16 THE COURT: Sustained.</p> <p>17 BY MR. PRYOR:</p> <p>18 Q. -- whether or not eugenics was raised as an</p> <p>19 issue between Ms. Carter and her union about Planned</p> <p>20 Parenthood?</p> <p>21 MR. GREENFIELD: Objection, your Honor,</p> <p>22 relevance, and 403.</p> <p>23 THE COURT: I will allow the answer to the</p> <p>24 question.</p> <p>25 THE WITNESS: No.</p>	<p style="text-align: right;">Page 1051</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. And you don't know what it is?</p> <p>3 A. No.</p> <p>4 MR. PRYOR: Let's look at Exhibit 74.</p> <p>5 BY MR. PRYOR:</p> <p>6 Q. Okay. Do you recognize --</p> <p>7 MR. PRYOR: Is it in evidence?</p> <p>8 THE COURT: It's not.</p> <p>9 MR. PRYOR: I offer Exhibit 74.</p> <p>10 THE COURT: Okay. 74. Any objections on</p> <p>11 Exhibit 74?</p> <p>12 MR. GREENFIELD: One moment, your Honor.</p> <p>13 THE COURT: Yes.</p> <p>14 MR. GREENFIELD: No.</p> <p>15 MR. McKEEBY: No objection from Southwest.</p> <p>16 MR. GREENFIELD: No objections.</p> <p>17 THE COURT: Okay. 74 is in evidence. We</p> <p>18 will publish.</p> <p>19 (The referred-to document was admitted</p> <p>20 into evidence as Plaintiff's Exhibit 74.)</p> <p>21 BY MR. PRYOR:</p> <p>22 Q. Do you recognize this document?</p> <p>23 A. Yes.</p> <p>24 Q. I'm sorry?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 1052</p> <p>1 Q. Did you review this document last week?</p> <p>2 A. Yes.</p> <p>3 Q. So you were not only familiar with it at the</p> <p>4 time, you have refreshed your recollection as we sit</p> <p>5 here, right?</p> <p>6 A. Yes.</p> <p>7 Q. And you sent this document to Meggan Jones and</p> <p>8 Dave Kissman?</p> <p>9 A. And --</p> <p>10 Q. Yes?</p> <p>11 A. Yes.</p> <p>12 Q. And Meggan Jones is an attorney for Southwest</p> <p>13 Airlines.</p> <p>14 A. No.</p> <p>15 Q. What is she?</p> <p>16 A. She, at the time, was my assistant base</p> <p>17 manager.</p> <p>18 Q. What?</p> <p>19 A. At the time she was my assistant base manager.</p> <p>20 Q. Okay. I thought there was a lawyer on here</p> <p>21 somewhere. Was there a lawyer involved in the</p> <p>22 investigation who sat in on the interviews? No</p> <p>23 lawyers?</p> <p>24 A. No.</p> <p>25 Q. Who is Dave Kissman?</p>	<p style="text-align: right;">Page 1053</p> <p>1 A. He's my immediate leader.</p> <p>2 Q. And you sent this to employee relations, right?</p> <p>3 A. Correct.</p> <p>4 Q. And employee relations' job, among other</p> <p>5 things, I assume, is to determine whether or not</p> <p>6 there are any protected rights that should be looked</p> <p>7 at after any investigation, true?</p> <p>8 A. Yes.</p> <p>9 Q. And, in fact, you sent this to them and said,</p> <p>10 Let me know your thoughts on protected categories.</p> <p>11 A. Yes.</p> <p>12 Q. And we will get to what they told you in a</p> <p>13 second, but from your knowledge, are religious</p> <p>14 beliefs a protected category?</p> <p>15 A. Yes.</p> <p>16 Q. To your knowledge, is political speech a</p> <p>17 protected category?</p> <p>18 A. I don't know that.</p> <p>19 Q. To your knowledge, is union activity a</p> <p>20 protected category?</p> <p>21 A. I don't know that.</p> <p>22 Q. And so when you spoke to employee relations,</p> <p>23 what did they tell you about protected categories?</p> <p>24 A. In this particular case or in general?</p> <p>25 Q. In this particular case.</p>

<p style="text-align: right;">Page 1054</p> <p>1 A. After the investigation, you mean in the letter 2 that was sent to me? 3 Q. They didn't talk to you about protected 4 categories until the investigation was over? 5 A. No. I'm trying to figure out when, what place 6 in time you are talking about did they talk to me -- 7 Q. Every moment -- every moment from the time you 8 sent this email to right now. 9 A. Yes, they've talked to me about protected 10 categories. 11 Q. When did they talk to you? 12 A. I don't recall dates. 13 Q. Did they talk to you before the investigation 14 was concluded? 15 A. They talked to me about this case and if it 16 violated or not. I don't remember if they talked to 17 me about protected categories during this 18 investigation. 19 Q. Okay. So to your recollection, the person that 20 made the termination decision and the person in 21 charge of this investigation, you have no 22 recollection of employee relations at Southwest 23 Airlines ever telling you anything about protected 24 categories prior to your termination decision, true? 25 MR. McKEEBY: Objection, asked and</p>	<p style="text-align: right;">Page 1055</p> <p>1 answered. 2 THE COURT: I will allow it. 3 THE WITNESS: They have talked to me about 4 that in the past if you are talking about all 5 encumbrance of when they may have talked to me. 6 But I'm trying to determine if it's a 7 specific moment when you are asking me if they 8 talked to me about protected categories, because 9 that is just general -- 10 BY MR. PRYOR: 11 Q. Sir, I made it specific to Ms. Carter. 12 You asked me, in general or this case. I said 13 this case. 14 Now you are going back to general. 15 Do you want to watch my question? Here we go. 16 You ready? 17 A. Yes. 18 Q. On February 23rd, you asked, specifically about 19 this investigation, Hey, employee relations. Let me 20 know your thoughts about protected categories. 21 And they never spoke to you specifically about 22 this case and protected categories prior to you 23 making your termination decision, true? 24 A. No -- 25 Q. Okay.</p>
<p style="text-align: right;">Page 1056</p> <p>1 A. -- they did talk to me. 2 Q. When did they talk to you about Ms. Carter or 3 Ms. Stone's protected categories? 4 A. While we were doing the investigation, employee 5 relations partnered with me on this investigation 6 and we did the interviews together. 7 Q. I know you did. Tell me about protected -- I 8 know they were involved. That wasn't my question. 9 What did they tell you about protected 10 categories? 11 A. They told me that the genitalia pictures -- 12 Q. That what? 13 A. The genitalia pictures of the faces did violate 14 the protected category of sexual -- if that's what 15 you are asking. 16 Q. Did they call sexual harassment a protected 17 category? Is that what they told you? 18 A. Sexual harassment? 19 Q. I thought you just said that. Sexual 20 harassment. 21 A. Harassment, sexual harassment in the harassment 22 policy. 23 Q. Okay. And they told you that's a protected 24 category, sexual harassment? 25 A. They said it violated that, yes.</p>	<p style="text-align: right;">Page 1057</p> <p>1 Q. Violated a policy, right? 2 A. Correct. 3 Q. Okay. I'm asking about protected categories. 4 What did they tell you about protected 5 categories? 6 A. I would have to have the document in front of 7 me. I don't remember specifically. 8 Q. You don't recall generally, do you? 9 A. I don't recall generally what? 10 Q. Well, you are saying specifically, and I'm 11 making sure that you are not recalling something 12 generally. 13 Did they generally tell you about a protected 14 category? 15 A. Yes. 16 Q. What did they tell you? 17 A. They told me that it violated one of the 18 protected categories. 19 Q. The genitalia picture violated a protected 20 category, true? 21 A. Yes. 22 Q. Did they tell you about any other protected 23 categories that you should consider as part of your 24 investigation prior to making your termination 25 decision?</p>

<p style="text-align: right;">Page 1058</p> <p>1 A. Not that I recall.</p> <p>2 Q. You considered no other protected categories</p> <p>3 other than genitalia and how it might violate a</p> <p>4 sexual harassment policy; that's the only protected</p> <p>5 category you considered in your investigation prior</p> <p>6 to making your termination decision?</p> <p>7 A. Yes.</p> <p>8 Q. So it is fair to say that there was no</p> <p>9 consideration given to Ms. Carter's religious</p> <p>10 beliefs in regard to your investigation or</p> <p>11 termination decision, true?</p> <p>12 A. True.</p> <p>13 Q. And it's also fair to say that no consideration</p> <p>14 was given to her union activity in regard to your</p> <p>15 termination decision or investigation?</p> <p>16 A. Yes.</p> <p>17 MR. PRYOR: Let's see. 82.</p> <p>18 BY MR. PRYOR:</p> <p>19 Q. So let's look at Exhibit 76. I think this</p> <p>20 confirms your recollection. It's on the screen.</p> <p>21 So the email at the top, just below it is the</p> <p>22 one that you sent to employee relations saying, Let</p> <p>23 me know your thoughts on protected categories.</p> <p>24 And above it is their response, true?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 1059</p> <p>1 Q. And when they responded to your inquiry about</p> <p>2 protected categories, they don't say anything about</p> <p>3 protected categories, do they?</p> <p>4 A. No.</p> <p>5 MR. PRYOR: 82.</p> <p>6 BY MR. PRYOR:</p> <p>7 Q. Let's look at Exhibit 82. That's</p> <p>8 February 23rd. Trying to keep a little timeline</p> <p>9 here.</p> <p>10 Let's look at Exhibit 82.</p> <p>11 THE COURT: Counsel, we have been on the</p> <p>12 record for about an hour 45. Are you okay if we</p> <p>13 break now a little early for lunch?</p> <p>14 MR. PRYOR: Are you asking if this is a</p> <p>15 good time for lunch?</p> <p>16 THE COURT: Yes.</p> <p>17 MR. PRYOR: My back is killing me. I</p> <p>18 would love to sit down.</p> <p>19 THE COURT: Okay. So before we bring up</p> <p>20 82, we will take our lunch break a little early in</p> <p>21 light of the early morning break.</p> <p>22 So the same three instructions. You can</p> <p>23 only talk to yourselves and court staff, just not</p> <p>24 about the case. Don't talk to anyone else and don't</p> <p>25 do any research or anything like that on the case.</p>
<p style="text-align: right;">Page 1060</p> <p>1 Keep an open mind.</p> <p>2 All rise for the jury.</p> <p>3 See you back here at 12:45.</p> <p>4 (The jurors exited the courtroom.)</p> <p>5 THE COURT: Mr. Schneider, you can leave</p> <p>6 the stand. You just can't talk to anyone about the</p> <p>7 case. Thank you, sir.</p> <p>8 (The witness exited the courtroom.)</p> <p>9 THE COURT: Okay. So can I just say one</p> <p>10 thing? Housekeeping-wise, I know we are to 82. I'm</p> <p>11 not going to ask for objections on that, we can do</p> <p>12 that right before lunch.</p> <p>13 But also, 76, we never unmuted the jury</p> <p>14 screens because 76 is not in evidence. So if you</p> <p>15 want to bring 76 in, then housekeeping-wise, think</p> <p>16 about that. Because 76 is not in and the jury did</p> <p>17 not see 76.</p> <p>18 MR. PRYOR: We ask --</p> <p>19 THE COURT: Okay. Do y'all know 76?</p> <p>20 MR. PRYOR: I can pop it back up.</p> <p>21 THE COURT: Let's pop it back up, and I'm</p> <p>22 going to look in my notes for anything on 76.</p> <p>23 I don't have a written objection on 76.</p> <p>24 MR. McKEEBY: No objection to 76.</p> <p>25 THE COURT: Any objection from the Union</p>	<p style="text-align: right;">Page 1061</p> <p>1 on 76?</p> <p>2 MR. GREENFIELD: No, your Honor.</p> <p>3 THE COURT: So what I will do is when we</p> <p>4 come back on the record, can you move for admission</p> <p>5 when the jury is here on 76.</p> <p>6 I will show it to them, and you can say, I</p> <p>7 talked to the witness about this, but you didn't see</p> <p>8 it because it wasn't in evidence then. It is now.</p> <p>9 Here is the document he saw that you are now seeing.</p> <p>10 And then we will move back to 82.</p> <p>11 Sound good?</p> <p>12 Any other issues that we have to talk about?</p> <p>13 MR. GREENFIELD: If I may sidebar, your</p> <p>14 Honor.</p> <p>15 THE COURT: Sidebar here?</p> <p>16 MR. GREENFIELD: Yes.</p> <p>17 (Thereupon, the following proceedings were</p> <p>18 had at sidebar:)</p> <p>19 MR. GREENFIELD: Your Honor, the continued</p> <p>20 sidebars and argumentative nature of his questions,</p> <p>21 I'm personally aghast at the lack of courtroom</p> <p>22 decorum.</p> <p>23 I do not believe he's complying with the</p> <p>24 rules of professionalism or with Dondi, which is a</p> <p>25 requirement of this Court. I don't even believe</p>

<p style="text-align: right;">Page 1062</p> <p>1 he's even read the case, which is a requirement of 2 this Court. 3 I would just like to ask you to instruct 4 him to stop. 5 THE COURT: Response. 6 MR. PRYOR: Your Honor, in response, you 7 have sustained a few objections, but many you have 8 not. 9 This is a witness, in my opinion, that is 10 trying not to answer the questions. And so, yeah, 11 there is a little hand-to-hand combat. 12 They've over-objected and raised -- 13 they've been -- their objections have been overruled 14 as much as they have been sustained. So I don't 15 think we are into that category. 16 And I certainly know what Dondi is and I'm 17 not violating it. 18 They can object, the Court can rule. If 19 they want to make a motion, make a motion. But I 20 don't think there's anything like that -- 21 MR. GREENFIELD: I'm talking about the 22 repeated sidebars and argumentative comments that 23 are clearly not appropriate. 24 THE COURT: So I will say this. I think 25 we do need to dial down the rhetoric.</p>	<p style="text-align: right;">Page 1063</p> <p>1 MR. PRYOR: I will. 2 THE COURT: On specific objections to 3 questions, I'm giving all of you leeway, but that is 4 the one area we do need to dial down. 5 I think part of the issue is there is 6 oftentimes a lack of communication, and I think what 7 you're perceiving from the witness as lying -- 8 MR. PRYOR: You are right. 9 THE COURT: -- and evasion is he's not a 10 lawyer, and he does not have the same familiarity 11 with this case and the rules of evidence that we now 12 have. 13 When I was in private practice in the 14 appellate section of the AG's office, we would 15 always call our first mood the mood of rage because 16 you are angry that anyone can see the case 17 differently than you. We would rip our panelists' 18 heads off for even asking a question. 19 And I think you are all at the point of 20 rage because you are so steeped in the case. So 21 that's why we would have a second mood. We would 22 call that the mood of reason. We now understand why 23 you might have a lack of understanding of what I'm 24 saying, let me clarify that for you. 25 So I would like us to all get this</p>
<p style="text-align: right;">Page 1064</p> <p>1 afternoon to the point of reason rather than the 2 point of rage that we are at now. 3 Does that make sense? 4 MR. PRYOR: Yes. And there is a specific 5 example, when I came up and you told me we were 6 talking past each other, and you were exactly right. 7 And I will, as counsel says -- he used 8 dial back. I will. And, however, there are times 9 when the witness -- I have to fight with him. But I 10 certainly acknowledge -- 11 THE COURT: I will agree to do that. 12 I will say this afternoon there might be 13 times where he will evade you intentionally, but I 14 don't think he's doing it all the time. 15 So I think we need to give him the benefit 16 of the doubt, not have a lawyer characterizing him 17 as a liar or evasive. But if it really counts and 18 you can see and everyone knows he's evading you -- 19 MR. PRYOR: Okay. I will make -- 20 MR. GREENFIELD: And if I may make it 21 abundantly clear, Mr. Pryor can interrogate the 22 witness in whatever form he wants to. If he wants 23 to dial it up, fine. I don't care. That's not my 24 issue. My issue is the repeated use of sidebars. 25 He won't stop.</p>	<p style="text-align: right;">Page 1065</p> <p>1 THE COURT: Understood. Sidebars should 2 be -- 3 MR. PRYOR: I hear counsel's comments. I 4 have seen some sustained and some overruled. And I 5 will take into consideration counsel's comments and 6 the Court's. 7 MR. GREENFIELD: I'm not talking about the 8 argumentative objections. 9 MR. PRYOR: I appreciate that. 10 MR. GREENFIELD: It has been happening for 11 three days, Mr. Pryor. 12 MR. PRYOR: All right. So I have a 13 sidebar issue as well. It doesn't matter if it's on 14 the record or not. 15 I want the Court to know that we are 16 mindful that you gave us three more hours and we are 17 going to make good use of that. 18 We have made a decision to spend more time 19 with Mr. Schneider, and we are either cutting or 20 shortening substantially other witnesses. 21 I didn't want the Court to think, wow, 22 we've got three more hours. We are going crazy. 23 We are doing that, and we will still leave 24 time for our cross and closing. And I think there 25 is every chance we will close the evidence on</p>

<p style="text-align: right;">Page 1066</p> <p>1 Monday, if not Monday morning. It depends on today. 2 But that's -- 3 THE COURT: Can I ask, are there any of 4 the deposition page/line designation objections we 5 are working that we shouldn't? 6 We are going to keep working on all of 7 them -- 8 MR. PRYOR: That's a really good question. 9 THE COURT: How about tell me -- at the 10 end of the lunch break, tell me if there are any -- 11 MR. PRYOR: We will. 12 THE COURT: -- you say, We are just not 13 going to pursue this written deposition coming in. 14 And I know you are saving back some time 15 for Nevarez who we haven't -- 16 MR. PRYOR: That's right. 17 MR. McKEEBY: And question as to witnesses 18 today, who do I need to have here? 19 MR. PRYOR: As we've talked about, we 20 anticipate calling Ms. Lacore after this witness. 21 MR. McKEEBY: Do I need to have any other 22 witness here other than Ms. Lacore? 23 MR. PRYOR: You do not. 24 THE COURT: What about the Union? 25 MR. PRYOR: It means that we either think</p>	<p style="text-align: right;">Page 1067</p> <p>1 we're going to finish with Lacore or put on video 2 depositions or put on Ms. Carter. 3 MR. GILLIAM: And to answer your question, 4 probably -- 5 MR. PRYOR: So I'm trying to be very open 6 about it and appreciative of the time we got. I 7 didn't want you to think we're going crazy. 8 THE COURT: Is there a video depo you're 9 contemplating today that we don't have rulings back 10 to you on? 11 MR. GILLIAM: I will have to look at my 12 notes. Kleburne is the one we are contemplating. 13 THE COURT: Okay. 14 MR. GILLIAM: I can't remember if -- 15 MR. PRYOR: So, no, we are good. 16 THE COURT: Got it. 17 Okay. We will see y'all after lunch. 18 (Thereupon, the sidebar was concluded and 19 the following proceedings were held in open 20 court.) 21 THE COURT: Now we are in recess. 22 THE COURT SECURITY OFFICER: All rise. 23 (Recess.) 24 THE COURT SECURITY OFFICER: All rise. 25 THE COURT: Anything we need to talk</p>
<p style="text-align: right;">Page 1068</p> <p>1 about? I know we're going to do housekeeping on 2 what, 76? 76. And then you are going to come back 3 to 82. So you will move for the admission of 76, I 4 will enter it, then you will show it to the jury, 5 and then we will move on to 82. Got it? 6 Okay. Let's bring them in. 7 (The jurors entered the courtroom.) 8 Okay. You can be seated. 9 Mr. Pryor, you can continue. 10 MR. PRYOR: Thank you, your Honor. At 11 this time, we offer into evidence Exhibit 76, and 12 ask it that be displayed to the jury. 13 THE COURT: Okay. Seventy-six, I have 14 considered objections. It is coming in. 15 Seventy-six is admitted into evidence. 16 And I will just say, this is a document 17 that the witness saw earlier but y'all didn't see. 18 So we are going to put it on the screen so you can 19 see what the witness saw earlier. 20 MR. PRYOR: And my apologies for not 21 getting that into evidence and on the screen timely. 22 BY MR. PRYOR: 23 Q. Sir, did you make any inquiries into whether 24 Charlene Carter needed a religious accommodation? 25 A. No.</p>	<p style="text-align: right;">Page 1069</p> <p>1 Q. Has anyone at Southwest Airlines ever told you 2 that part of your job is to consider whether or not 3 a person would need a religious accommodation? 4 A. No. 5 Q. To your knowledge, was this incident involving 6 Ms. Carter reported to ACT? 7 A. No, it was not by me. 8 Q. And what is ACT? 9 A. The Accommodations and Career Transition Team 10 for Southwest Airlines. 11 Q. And that is the team that, if there is an 12 accommodation consideration to be made, that is the 13 team that makes it? 14 A. Correct. Ms. Carter would have to take it to 15 them and they would determine if their accommodation 16 was approved. 17 Q. And it is your testimony that Ms. Carter has to 18 raise that issue with ACT, true? 19 A. Yes. 20 Q. And did Ms. Carter's Facebook post that you 21 reviewed cause Southwest Airlines any financial harm 22 before she was terminated? 23 A. Not that I'm aware of. 24 Q. Did Southwest Airlines -- let's start with you. 25 Did you ever discuss with Ms. Carter whether</p>

<p style="text-align: right;">Page 1070</p> <p>1 she would be willing to post a disclaimer on her</p> <p>2 Facebook page that her posts do not necessarily</p> <p>3 represent the views of Southwest Airlines?</p> <p>4 A. No.</p> <p>5 Q. Could you have done that?</p> <p>6 A. I haven't done that in the past.</p> <p>7 Q. I didn't ask if you had. But that is something</p> <p>8 you could have considered or done because you were</p> <p>9 the one in charge?</p> <p>10 Right?</p> <p>11 A. I don't know the answer to that question</p> <p>12 because I have never had to do that.</p> <p>13 Q. So there were limitations that Southwest</p> <p>14 Airlines placed on you in terms of what you could do</p> <p>15 to Ms. Carter?</p> <p>16 A. I am just saying that I have never done it</p> <p>17 before.</p> <p>18 Q. I understand that. You have told us that.</p> <p>19 I'm asking you, that is something that you</p> <p>20 could have considered and could have done if you</p> <p>21 thought it was appropriate?</p> <p>22 A. I would have to take it through our legal team</p> <p>23 to make sure.</p> <p>24 Q. Okay.</p> <p>25 And if your legal team told you you could do</p>	<p style="text-align: right;">Page 1071</p> <p>1 it, that would be something, then, that you would</p> <p>2 consider?</p> <p>3 A. Yes.</p> <p>4 Q. But you didn't do that; you didn't consider it,</p> <p>5 right?</p> <p>6 A. Correct.</p> <p>7 Q. Did you or anyone to your knowledge at</p> <p>8 Southwest Airlines ever ask Ms. Carter if she would</p> <p>9 remove Facebook posts that it considered to be a</p> <p>10 nexus to the workplace?</p> <p>11 A. Not that I'm aware of.</p> <p>12 Q. And that also is something that you could have</p> <p>13 done if you had chosen to, true?</p> <p>14 A. Yes.</p> <p>15 Q. If you wanted to accommodate her union</p> <p>16 activities or religious beliefs, you could have</p> <p>17 considered that, right?</p> <p>18 MR. McKEEBY: Objection to the argument.</p> <p>19 THE COURT: I'll allow it.</p> <p>20 THE WITNESS: Can you repeat the question?</p> <p>21 BY MR. PRYOR:</p> <p>22 Q. Yes. If you wanted to take into consideration</p> <p>23 Ms. Carter's religious beliefs or union activities</p> <p>24 that were being complained about, that is something</p> <p>25 you could have considered doing, just asking to</p>
<p style="text-align: right;">Page 1072</p> <p>1 remove the nexus from her Facebook page?</p> <p>2 MR. McKEEBY: Objection, foundation.</p> <p>3 THE COURT: I'll allow it.</p> <p>4 THE WITNESS: I could have.</p> <p>5 BY MR. PRYOR:</p> <p>6 Q. And to your knowledge -- first of all, you know</p> <p>7 you didn't, you did not do that?</p> <p>8 A. No, I did not.</p> <p>9 Q. And to your knowledge, no one else at Southwest</p> <p>10 Airlines did that, correct?</p> <p>11 A. No. Not during the short time that the</p> <p>12 investigation took place, because she was terminated</p> <p>13 after that. And there wasn't time.</p> <p>14 Q. And in fact, the action that was taken was</p> <p>15 action that you took; it was your decision and your</p> <p>16 action, not anyone else's in that regard, true?</p> <p>17 A. In regard to the termination?</p> <p>18 Q. The termination, and the manner in which you</p> <p>19 did it?</p> <p>20 A. Yes.</p> <p>21 Q. Did you have any communications with Naomi</p> <p>22 Hudson before contacting Audrey Stone about her</p> <p>23 complaint?</p> <p>24 A. No.</p> <p>25 MR. PRYOR: Okay. Let's go to Exhibit 82.</p>	<p style="text-align: right;">Page 1073</p> <p>1 THE COURT: Okay. Jury screens are muted.</p> <p>2 MR. PRYOR: Actually, I don't need</p> <p>3 Exhibit 82. You just answered that.</p> <p>4 Let's go to Exhibit 89. I move for the</p> <p>5 admission of Exhibit 89.</p> <p>6 THE COURT: Eighty-nine. Any objections</p> <p>7 on 89?</p> <p>8 MR. McKEEBY: No objection.</p> <p>9 THE COURT: Any from the union?</p> <p>10 MR. GREENFIELD: No objection, your Honor.</p> <p>11 THE COURT: Okay. Eighty-nine is in. We</p> <p>12 will publish.</p> <p>13 (The referred-to document was admitted in</p> <p>14 Evidence as Trial Exhibit 89.)</p> <p>15 BY MR. PRYOR:</p> <p>16 Q. Okay. Mr. Schneider, do you recognize</p> <p>17 Exhibit 89 as your notes of the interview from your</p> <p>18 fact-finding team of Audrey Stone?</p> <p>19 A. Yes.</p> <p>20 Q. Let's go to the second page. DG, who is DG?</p> <p>21 A. Denise Gutierrez.</p> <p>22 Q. Okay. And about a third of the way down the</p> <p>23 page, it says, Great, tell me first the individual</p> <p>24 that sent the message.</p> <p>25 Do you see where I'm at?</p>

<p style="text-align: right;">Page 1074</p> <p>1 A. Yes.</p> <p>2 Q. I'm going to read part of that, and feel free</p> <p>3 to read it all.</p> <p>4 It is a flight attendant in Denver. Since 2008</p> <p>5 when I was on the board, she has not been union</p> <p>6 friendly. It goes on to say, in 2013, when I came</p> <p>7 in as president, through Facebook, she has sent me</p> <p>8 various messages. I have ignored them and have not</p> <p>9 had a relationship with her. She is very</p> <p>10 anti-union.</p> <p>11 Correct?</p> <p>12 A. That is what it states, yes.</p> <p>13 Q. Do you recall that your notes are consistent</p> <p>14 with what you recall actually happening?</p> <p>15 A. Are you asking if my notes are accurate, is</p> <p>16 that what you are asking?</p> <p>17 Q. To the best of your ability, you were writing</p> <p>18 down what was said?</p> <p>19 A. Yes.</p> <p>20 Q. And what we know from this answer is that</p> <p>21 communications between Ms. Carter and Ms. Stone</p> <p>22 began after Ms. Stone became president of the Union,</p> <p>23 right?</p> <p>24 A. Yes. It says 2008, and then in 2013, when she</p> <p>25 became president.</p>	<p style="text-align: right;">Page 1075</p> <p>1 Q. So is that a yes?</p> <p>2 A. Yes.</p> <p>3 Q. And you know that she's telling you that she</p> <p>4 believes Ms. Carter's very anti-union?</p> <p>5 A. That is the statement she made, yes.</p> <p>6 Q. And did you actually find out from Ms. Carter</p> <p>7 that she's not anti-union, she was just anti this</p> <p>8 administration of Local 556 under Ms. Stone?</p> <p>9 A. To some extent, yes. The Union in general,</p> <p>10 too, though.</p> <p>11 Q. Then down below that, it says, What do you</p> <p>12 think would cause her to send the message? Her</p> <p>13 answer was, I have never had a conversation with</p> <p>14 her, she's anti-union.</p> <p>15 Once again, this answer is emphasizing this</p> <p>16 relates to the Union, right?</p> <p>17 A. It states she's anti-union, yes.</p> <p>18 Q. Well, why would she send you the message?</p> <p>19 She's telling you in the answer, is because she's</p> <p>20 anti-union. That is telling you it is activity</p> <p>21 related to the Union, right?</p> <p>22 MR. GREENFIELD: Objection, lack of</p> <p>23 foundation, calls for speculation.</p> <p>24 THE COURT: I'll allow him to answer if he</p> <p>25 has personal knowledge.</p>
<p style="text-align: right;">Page 1076</p> <p>1 THE WITNESS: I don't have personal</p> <p>2 knowledge why she would do that.</p> <p>3 BY MR. PRYOR:</p> <p>4 Q. You don't have an understanding of what she</p> <p>5 told you when she said, She sent me the message</p> <p>6 because she's anti-union? You didn't understand</p> <p>7 that?</p> <p>8 MR. GREENFIELD: Objection, misreading the</p> <p>9 document.</p> <p>10 THE COURT: Sustained.</p> <p>11 BY MR. PRYOR:</p> <p>12 Q. Why do you think -- what do you think would</p> <p>13 cause her to send the message? Part of the answer</p> <p>14 is, "She's anti-union, right," right?</p> <p>15 MR. McKEEBY: Objection, foundation.</p> <p>16 THE COURT: I'll allow it.</p> <p>17 THE WITNESS: That is what it states here,</p> <p>18 yes. That's what she said.</p> <p>19 BY MR. PRYOR:</p> <p>20 Q. Did you disagree with what she told you?</p> <p>21 A. I didn't agree or disagree.</p> <p>22 Q. So you didn't consider this at all?</p> <p>23 A. The anti-union part? I considered it. But I</p> <p>24 didn't at that time agree or disagree with her.</p> <p>25 Q. She has sent messages in the past that I have</p>	<p style="text-align: right;">Page 1077</p> <p>1 ignored.</p> <p>2 Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. Did you investigate which messages she reviewed</p> <p>5 and which ones she did not?</p> <p>6 A. Only the ones that she sent to us.</p> <p>7 Q. Okay. And of those, did you go through with</p> <p>8 her and ask her which ones she read and which ones</p> <p>9 she did not?</p> <p>10 A. No.</p> <p>11 Q. It says, I was on a ski trip with people from</p> <p>12 Denver last Wednesday. I asked them not to tag or</p> <p>13 post anything on Facebook. I went on Facebook to</p> <p>14 check and there was a message from her. I opened</p> <p>15 the message and it had a video that I couldn't look</p> <p>16 at because I was in the Denver airport. I read the</p> <p>17 text and closed it out. I couldn't look at the</p> <p>18 video in the airport.</p> <p>19 Did I read that right?</p> <p>20 A. That is what it states, yes.</p> <p>21 Q. And once again, you have written down what you</p> <p>22 believe accurately reflects what you were told?</p> <p>23 A. Correct.</p> <p>24 Q. And what you were told is, not that Ms. Stone</p> <p>25 opened up the video in the airport and started</p>

<p style="text-align: right;">Page 1078</p> <p>1 crying when she read the video and missed a plane, 2 but what you were told was, she could not open the 3 video in the airport and all she could do was read 4 the message associated with the video, correct? 5 A. Yeah. Just -- it states that she was in the 6 Denver airport and couldn't open it. It doesn't 7 state why. I don't know. 8 Q. She read the message. She knew what it was 9 about and she didn't watch the video at that time. 10 Later, she made the conscious decision to go in and 11 view the video, knowing what it was going to be 12 about? 13 MR. McKEEBY: Objection, foundation, 14 speculation. 15 THE COURT: I will overrule. 16 You can answer if you have personal 17 knowledge. 18 MR. GREENFIELD: Then, objection, I would 19 like to, on top of that, then, make a hearsay 20 objection. 21 THE COURT: I will overrule that. 22 THE WITNESS: I don't know what she was 23 thinking, what she thought the video was. 24 BY MR. PRYOR: 25 Q. Fair enough.</p>	<p style="text-align: right;">Page 1079</p> <p>1 You know that she didn't view it until after 2 she read the message associated with it and after 3 she left the airport, some time later, she then 4 decided to view the video, based on what she told 5 you? 6 A. It doesn't state that specifically here. 7 Q. Well, it says, I couldn't look at the video in 8 the airport. 9 Did she tell you at some point she viewed the 10 video? 11 MR. GREENFIELD: Objection, your Honor. 12 May we approach? 13 THE COURT: Yes. 14 (Thereupon, the following proceedings were 15 had at sidebar:) 16 MR. GREENFIELD: I think now we are 17 crossing clearly over to hearsay. She's saying 18 based on what she told you -- 19 THE COURT: Party opponent? 20 MR. GREENFIELD: Audrey Stone? 21 THE COURT: Sure. She's the union 22 president, the Union's a party, party opponent. 23 MR. PRYOR: Absolutely. Certainly at the 24 time. 25 THE COURT: Sure. And effect on him. I</p>
<p style="text-align: right;">Page 1080</p> <p>1 mean, I think there are two ways around -- 2 MR. PRYOR: But no, it is also because 3 he's -- the investigator made the decision, his 4 knowledge. 5 THE COURT: Sure. It is her statement's 6 impression on him. So, I mean, I think there are 7 two ways for this. 8 (Thereupon, the sidebar was concluded and 9 the following proceedings were held in open 10 court:) 11 THE COURT: Okay. You can ask. 12 BY MR. PRYOR: 13 Q. Do you remember the question? 14 A. No, sir. 15 Q. Okay. 16 So based on what you wrote, and what you 17 recall, based on what you wrote or however you 18 recall, you know that she didn't view the video at 19 the airport. She reviewed it somewhere else because 20 she couldn't view it at the airport, true? 21 A. I don't recall her saying that she viewed it 22 after -- I don't know when that was. 23 Q. You don't know that she ever viewed the video? 24 She didn't tell you she viewed it? 25 A. I don't recall whether she said it or not.</p>	<p style="text-align: right;">Page 1081</p> <p>1 Q. One of the things you know for sure is that she 2 told you when she got -- what she refers to here as 3 the text and closed it out, I couldn't look at the 4 video at the airport. True? 5 A. Yes. 6 Q. And she told you that she was on a ski trip 7 with some people from Denver at the time. True? 8 A. Yes. 9 Q. That is different than saying, I was going on a 10 union trip to Baltimore, isn't it? 11 A. It is different, yes. 12 Q. So on the next page, she talks about, towards 13 the bottom, that -- What is your interpretation, 14 Can't wait until you get back on line. She says, 15 I'm full-time for the Union, I know there has been a 16 recall to try to get the majority of the board 17 ousted. 18 So you were aware of the recall effort, true? 19 A. Yes. I don't see that on my screen, though. 20 It is not down that far. 21 MR. PRYOR: I'm sorry, I can bring you 22 this page. Do you want to accept my representation 23 or I can bring it to you? 24 THE WITNESS: Either way. 25</p>

<p style="text-align: right;">Page 1082</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. You are okay with that?</p> <p>3 A. Yes.</p> <p>4 Q. All right. Let's see if we can find -- it is</p> <p>5 the next page.</p> <p>6 Oh, here it is, it is at the bottom here. Do</p> <p>7 you see where it says, I know there has been a</p> <p>8 recall to try to get the majority of the board</p> <p>9 ousted? It is the last one.</p> <p>10 A. Yes, I see it.</p> <p>11 Q. All right. Let's go to the next page.</p> <p>12 So, she was asked by DG, what do you want</p> <p>13 Southwest to do?</p> <p>14 That is the next page.</p> <p>15 Towards the -- again, the top third, do you see</p> <p>16 where it says, "what do you want Southwest to do?"</p> <p>17 A. Yes.</p> <p>18 Q. And it says, make Charlene and Chris Click</p> <p>19 stop. Tell those flight attendants not to talk</p> <p>20 about me or the Union president trying to get flight</p> <p>21 attendants fired. They need to protect me.</p> <p>22 Is that what she said, to the best of your</p> <p>23 recollection?</p> <p>24 A. Yes.</p> <p>25 Q. And she's talking about protecting herself from</p>	<p style="text-align: right;">Page 1083</p> <p>1 these flight attendants, true? Getting herself</p> <p>2 protected from these flight attendants?</p> <p>3 A. It states that -- it seems that she's --</p> <p>4 Q. There's nothing in here about what I really</p> <p>5 want is to protect other flight attendants, right?</p> <p>6 MR. McKEEBY: He didn't allow the witness</p> <p>7 to finish.</p> <p>8 THE COURT: Yes, you can finish your</p> <p>9 answer.</p> <p>10 MR. PRYOR: Oh, I'm sorry. Were you not</p> <p>11 finished?</p> <p>12 A. No.</p> <p>13 BY MR. PRYOR:</p> <p>14 Q. Okay. Finish.</p> <p>15 A. It states that those flight attendants, and it</p> <p>16 talks about to get flight attendants fired, that is</p> <p>17 general. I don't know what she's referring to</p> <p>18 exactly.</p> <p>19 Q. Okay. But she's talking about, make Charlene</p> <p>20 and Chris Click stop. She says that.</p> <p>21 By the way, stop what? Do you recall?</p> <p>22 A. No.</p> <p>23 Q. And it says, tell those flight attendants, and</p> <p>24 the only flight attendants mentioned would be those,</p> <p>25 Charlene and Chris?</p>
<p style="text-align: right;">Page 1084</p> <p>1 A. Yes. I would assume so now, reading it.</p> <p>2 Q. So tell those flight attendants not to talk</p> <p>3 about me or the Union president trying to get flight</p> <p>4 attendants fired.</p> <p>5 So "me" is her and "union president" is her,</p> <p>6 right?</p> <p>7 A. Yes.</p> <p>8 Q. And so she's saying, tell them not talk about</p> <p>9 Audrey Stone or Audrey Stone, president of the</p> <p>10 Union, right?</p> <p>11 A. Yes.</p> <p>12 Q. And it says, "they need to protect me." Once</p> <p>13 again, my question to you is, in her answer to, what</p> <p>14 do you want Southwest to do, she didn't say anything</p> <p>15 about, well, really I'm -- she didn't tearfully say,</p> <p>16 I'm doing this to protect other flight attendants,</p> <p>17 especially one that might be pregnant. Nothing like</p> <p>18 that, right?</p> <p>19 MR. GREENFIELD: Objection, your Honor,</p> <p>20 lack of foundation, speculation, and now he's</p> <p>21 testifying as to what --</p> <p>22 THE COURT: Hold on. That is a speaking</p> <p>23 objection.</p> <p>24 I'll allow it.</p> <p>25 MR. PRYOR: I'm comparing it --</p>	<p style="text-align: right;">Page 1085</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. You can answer.</p> <p>3 A. Can you say the question one more time.</p> <p>4 Q. Yeah. She didn't tell you anything about, I'm</p> <p>5 not worried about me, I want you to protect other</p> <p>6 flight attendants, especially one that might be</p> <p>7 pregnant. She didn't tell you that, did she?</p> <p>8 A. No.</p> <p>9 Q. Okay.</p> <p>10 MR. PRYOR: Let's go to Exhibit 90.</p> <p>11 I'm sorry, your Honor, may I move -- I</p> <p>12 move for the admission of Exhibit 90.</p> <p>13 THE COURT: All right. Any objection to</p> <p>14 90?</p> <p>15 MR. McKEEBY: No objection.</p> <p>16 THE COURT: Any from the Union?</p> <p>17 MR. GREENFIELD: One moment, your Honor.</p> <p>18 None, your Honor.</p> <p>19 THE COURT: It is admitted. We are</p> <p>20 publishing.</p> <p>21 (The referred-to document was admitted in</p> <p>22 Evidence as Trial Exhibit 90.)</p> <p>23 BY MR. PRYOR:</p> <p>24 Q. So it is Exhibit 90, there is an email from</p> <p>25 Ms. Emlet, and you are in the lower email,</p>

<p style="text-align: right;">Page 1086</p> <p>1 Mr. Schneider. And it says here the documents that 2 create the nexus from her Facebook page. I'm 3 summarizing. 4 I will show you those pictures. 5 That's the -- go to the next page. 6 MR. PRYOR: Do you want me to just hand 7 him a hard copy or -- 8 MR. HILL: I'm about to drag it over. 9 MR. PRYOR: Okay. 10 BY MR. PRYOR: 11 Q. Okay. Here we go. I'm going to show you a 12 series of pictures and ask you if you recognize 13 these as the nexus that was used on her Facebook 14 page as part of one of your buckets to terminate 15 Ms. Carter. 16 Do you recognize this first one? 17 A. I have seen it in the past, yes. 18 Q. Is this one of the documents that you relied 19 upon as a nexus on her Facebook page to associate 20 her abortion video with Southwest Airlines? 21 A. It shows her with a Southwest badge on, yes. 22 Q. Okay. The answer is yes, and it is because it 23 shows a Southwest badge? 24 A. Yes. 25 Q. Okay. Can you tell from looking at it that it</p>	<p style="text-align: right;">Page 1087</p> <p>1 is a Southwest badge? 2 A. Not here. If you zoomed in, you might be able 3 to. 4 Q. Okay, let's blow it up. Make it a little 5 smaller, see if will ever focus in. 6 Have you ever seen a version of this Facebook 7 post that shows anything other than a blurred 8 lanyard? 9 A. No. I have not. 10 Q. So -- by the way, do you know how long ago this 11 was from the time that the abortion video was 12 posted? 13 A. No, I don't. 14 Q. Would it matter to you, in order -- by the way, 15 a nexus is, there is some relationship between the 16 offensive post, or what be might be viewed as an 17 offensive post, and Southwest Airlines because 18 somebody going to Charlene's Facebook page could be 19 confused that maybe she's representing Southwest 20 Airlines and that affects Southwest Airlines' brand? 21 MR. GREENFIELD: Objection, your Honor. 22 Counsel is testifying as to -- 23 THE COURT: Sustained. 24 MR. GREENFIELD: What he believes the 25 nexus is.</p>
<p style="text-align: right;">Page 1088</p> <p>1 BY MR. PRYOR: 2 Q. So, your Honor, am I entitled to lead the 3 witness on this issue? 4 THE COURT: I think you need to ask what 5 the nexus is. 6 MR. PRYOR: So I can't lead him on this 7 issue. Okay. 8 THE COURT: You can lead him to nexus, but 9 your definition was too long. It amounted to you 10 testifying. 11 BY MR. PRYOR: 12 Q. What is nexus? 13 A. Anything that indicates that the employee is 14 employed by Southwest Airlines or has an interest in 15 Southwest Airlines. 16 Q. So anything on a Facebook page that shows you 17 are related somehow to Southwest Airlines creates a 18 nexus with whatever the offensive post is? 19 A. The thought process -- I'm sorry. 20 Q. Let me try it again. 21 Is the concept, that Southwest Airlines doesn't 22 want anybody posting something that someone might 23 think, hey, that is Southwest Airlines's position? 24 Is that the brand issue? 25 A. Yes.</p>	<p style="text-align: right;">Page 1089</p> <p>1 Q. Okay. 2 So is it -- this picture can't do that, right? 3 A. No. 4 Q. Even though this is listed as one of the 5 reasons for the nexus? 6 A. We listed the whole package that was given to 7 us, that had anything to do with Southwest Airlines. 8 Q. Okay. And -- but this one would not support a 9 nexus, true? 10 A. Not if you can't see the badge or Southwest in 11 it. 12 Q. Well, you have already told us that you can't, 13 right? 14 A. Say it again. 15 Q. You have already told us that you can't see it? 16 A. You can't see it clearly, no. 17 Q. You can't see it unclearly. You can't tell at 18 all, true? 19 A. It depends. If somebody has flown on Southwest 20 Airlines or seen an employee with a badge, they 21 could make out that that looks like a Southwest 22 badge possibly. That is all it's saying. 23 Q. And that is your basis for nexus? 24 A. No. I'm saying that this, including all of the 25 other pictures with it, was nexus.</p>

<p style="text-align: right;">Page 1090</p> <p>1 Q. This is one of them, right? This is part of 2 the nexus? 3 A. It could be. It wasn't my specific one that I 4 said to her indicated that she was employed by 5 Southwest Airlines. 6 Q. Does it matter that it was -- a picture was 7 years ago? Can you really say there is a nexus from 8 a picture over three years ago with a post -- is 9 that a nexus? 10 MR. McKEEBY: Objection, compound. 11 THE COURT: Sustained. 12 MR. GREENFIELD: And lack of foundation as 13 to the timing of this photo. 14 THE COURT: Sustained. 15 BY MR. PRYOR: 16 Q. Is there a nexus between a post today and a 17 post over 60 months ago? 18 A. If there is something on the Facebook page that 19 indicates that they are an employee of Southwest 20 Airlines, then the nexus could be made. 21 Q. And is that the way Southwest Airlines 22 typically enforces that policy, they go back years? 23 Scroll down those pages for half an hour and say, 24 boom, there is the nexus? 25 A. It means there is visibility to that</p>	<p style="text-align: right;">Page 1091</p> <p>1 information. And if somebody was offended by what 2 it said, they may do a little more research and the 3 information is there. 4 Q. So someone is going to see Ms. Carter's post 5 opposing abortion, and it is immediately going to 6 enter into their mind, you know what I'm going to 7 do, I'm going to go back five years to see whether 8 or not there is any reference to Southwest Airlines, 9 is that what you are telling us? 10 MR. McKEEBY: Objection, foundation, 11 speculation. 12 MR. PRYOR: Responding to his answer. 13 THE COURT: Hold on. I will sustain that. 14 BY MR. PRYOR: 15 Q. Is it reasonable to believe that someone could 16 look at Charlene Carter's Facebook page where she 17 posts an abortion video, and then scrolls back over 18 three-and-a-half years to find a picture of her 19 husband in a Southwest Airlines uniform, and that is 20 going to tell the world Charlene Carter is 21 representing Southwest Airlines's position on 22 abortion? Is that reasonable? 23 A. If they were to look at all of the pictures 24 that were in the investigation. 25 Q. Okay. I just want to make sure.</p>
<p style="text-align: right;">Page 1092</p> <p>1 You say that is reasonable, correct? 2 A. In today's world, there is a lot of passion out 3 there surrounding abortion, and people are very 4 motivated. And that is a possibility. 5 Q. And did anyone do that, other than your team? 6 Anyone? Did anyone complain? 7 MR. GREENFIELD: Objection -- objection, 8 your Honor. He changed his question. I will 9 withdraw my -- 10 MR. McKEEBY: What is the question? 11 BY MR. PRYOR: 12 Q. Did anyone do that other than your team to try 13 and fire Ms. Carter? 14 MR. McKEEBY: Objection to the 15 characterization. 16 THE COURT: I'll allow it. 17 THE WITNESS: Are you asking if someone 18 did that to fire Ms. Carter, is that your question? 19 BY MR. PRYOR: 20 Q. I know the answer to that. That is not my 21 question. 22 My question is, do you know of anyone other 23 than your team that went back more than three years 24 to try and find a connection to Southwest Airlines 25 on Ms. Carter's Facebook page? Anyone?</p>	<p style="text-align: right;">Page 1093</p> <p>1 MR. McKEEBY: Objection, foundation. 2 THE COURT: I'll allow it. 3 THE WITNESS: I'm not aware of that. But 4 they may not come and tell me that. It is a 5 perception that they would make on their own if they 6 did. And that is what we are concerned about. 7 BY MR. PRYOR: 8 Q. You are concerned with what? 9 A. Anything -- no, I'm saying that if somebody 10 made the perception that this person's video had 11 anything to do with Southwest Airlines. 12 Q. And you believed that it was reasonable to 13 believe that someone would go back years and 14 associate a picture with somehow Charlene Carter's 15 representing Southwest Airlines' position on 16 abortion, true? That could happen, right? 17 A. I answered that question. Yes. 18 Q. What was your answer? 19 A. That there is a possibility. With all of the 20 passion out there with abortion and the rights, 21 then -- people do a lot of things like that. 22 Q. So if I picture -- put a picture of myself 23 going to church, and three years ago, I posted a 24 picture me wearing a Southwest Airlines uniform, I 25 could be fired. I'm representing Southwest</p>

<p style="text-align: right;">Page 1094</p> <p>1 Airlines's position on religion, Southwest Airlines 2 doesn't want me doing that, do they? You should 3 fire me. 4 MR. McKEEBY: Objection, incomplete 5 hypothetical. 6 MR. GREENFIELD: Objection, your Honor, 7 and proposing a false equivalency. 8 THE COURT: I'll allow it. 9 THE WITNESS: I don't know whether that 10 would or not. 11 BY MR. PRYOR: 12 Q. It is a possibility, though, right? Isn't that 13 what you say, "possibility"? 14 A. I think it is a possibility that somebody could 15 make the perception that -- that is true. 16 MR. PRYOR: Exhibit 92. I offer Exhibit 17 92 into evidence. 18 THE COURT: Ninety-two. Any objections to 19 92? 20 MR. McKEEBY: No objection. 21 THE COURT: All right. How about the 22 Union? 23 MR. GREENFIELD: I can only see part of 24 that, so give me one moment, your Honor. 25 Ninety-two? No, your Honor.</p>	<p style="text-align: right;">Page 1095</p> <p>1 THE COURT: Okay. It is admitted. We are 2 publishing. 3 (The referred-to document was admitted in 4 Evidence as Trial Exhibit 92.) 5 BY MR. PRYOR: 6 Q. This is an email from Ms. Carter to you saying, 7 thank you -- you had contacted her about an 8 interview, I believe, true? 9 A. A fact-finding meeting, yes. 10 Q. Okay. And it says, thank you, Mr. Schneider. 11 I will call first thing Monday morning and ask for 12 the extension. I think she was on vacation at the 13 time? 14 A. Out of town, yes. 15 Q. This is all very new to me. I have never been 16 called in for anything in 20 years, and never had to 17 use the Union before, so thanks for the help. 18 In turn, did you look at her record to see if 19 she had a record at Southwest Airlines? 20 A. Yes. 21 Q. Did she have a clean record at Southwest 22 Airlines? 23 A. Yes. 24 Q. Did you take that into consideration as a 25 possibility in regard to whether or not to provide</p>
<p style="text-align: right;">Page 1096</p> <p>1 an accommodation or maybe not think about the 2 possibility of some deranged person going back five 3 years on a Facebook page? 4 MR. McKEEBY: Objection. 5 THE WITNESS: I don't follow the question. 6 MR. PRYOR: Let's -- 7 THE COURT: Hold on. 8 MR. PRYOR: I withdraw the question. 9 THE COURT: Okay. 10 MR. McKEEBY: Okay. 11 MR. PRYOR: Let's look at exhibit -- that 12 is not it either. I will get there. 13 BY MR. PRYOR: 14 Q. Do you recall in her interview, Ms. Stone 15 telling you that there were no pro choice activities 16 by the Union? 17 A. Did I tell her there were no pro choice? 18 Q. She told you during the interview -- let me go 19 back to her interview notes. Let me find them. 20 Do you recall asking her whether or not the 21 Union had taken any positions on abortion and her 22 telling you that they had not? 23 A. I vaguely remember that. 24 Q. You don't? I'm sorry? 25 A. I vaguely remember that.</p>	<p style="text-align: right;">Page 1097</p> <p>1 Q. Okay. 2 Let's look at Exhibit 56. 3 And it's AP32, which is like the fourth or 4 fifth page. 5 Q. Do you know who Jessica Parker is? 6 A. Yes, I do. 7 Q. She's a union member? 8 A. She was. 9 Q. By the way, were you a union member? 10 A. During this investigation? 11 Q. No. During your tenure at Southwest Airlines? 12 A. Yes. 13 Q. Were you in an official position or just a 14 paying dues member? 15 A. I was a paying dues member. 16 Q. That is all? 17 A. Yes. 18 Q. Okay. I was just trying to find out if you 19 were an officer. 20 A. No. 21 Q. Okay. So this is a post from the Women's March 22 by TWU Local 556. 23 Do you see where it says, "My body, my choice"? 24 A. Yes. 25 Q. Is that consistent with what you were told by</p>

<p style="text-align: right;">Page 1098</p> <p>1 Ms. Stone?</p> <p>2 A. That they don't have a stand on it?</p> <p>3 Q. That they didn't do any pro choice activities</p> <p>4 at the march.</p> <p>5 A. Yes, I do.</p> <p>6 Q. It is consistent or inconsistent?</p> <p>7 A. I don't believe that they -- I saw anything</p> <p>8 indicating that they were pro choice or pro life.</p> <p>9 Q. Well, what does this tell you?</p> <p>10 This is the TWU Local 556 post from the Women's</p> <p>11 March, "My body, my choice."</p> <p>12 You don't know what that means?</p> <p>13 A. I'm not completely familiar with it. I'm sure</p> <p>14 it has something to do, if you are saying so, with</p> <p>15 abortion.</p> <p>16 Q. So you don't know. The person investigating</p> <p>17 doesn't know what "my body, my choice" means?</p> <p>18 A. No. All I'm saying is that I don't know if</p> <p>19 that is a union member holding it up or not.</p> <p>20 Q. Oh, no. I'm -- the Union -- it is posted on</p> <p>21 the Union Facebook.</p> <p>22 A. Okay.</p> <p>23 Q. That is the Union taking a position about the</p> <p>24 march and pro choice.</p> <p>25 A. Okay.</p>	<p style="text-align: right;">Page 1099</p> <p>1 Q. That was -- that is what I meant by my</p> <p>2 question.</p> <p>3 MR. McKEEBY: I object, he's testifying</p> <p>4 about what the union --</p> <p>5 THE COURT: Well, rephrase it and ask a</p> <p>6 question.</p> <p>7 BY MR. PRYOR:</p> <p>8 Q. And so, therefore, understanding that, is that</p> <p>9 consistent or inconsistent with what Ms. Stone told</p> <p>10 you?</p> <p>11 MR. McKEEBY: Well, same objection. You</p> <p>12 didn't correct the --</p> <p>13 THE COURT: Yes. Can you back up and ask</p> <p>14 your last question as a question. You are making a</p> <p>15 statement and he said okay. But can you ask it in</p> <p>16 question form.</p> <p>17 MR. PRYOR: I will.</p> <p>18 BY MR. PRYOR:</p> <p>19 Q. Do you recall telling us your recollection is</p> <p>20 that Ms. Stone told you that there were no pro</p> <p>21 choice activities on the part of the Union in regard</p> <p>22 to the Women's March, true?</p> <p>23 A. I said I vaguely remember. I don't remember</p> <p>24 the details of what was said.</p> <p>25 Q. I will take your vague recollection.</p>
<p style="text-align: right;">Page 1100</p> <p>1 A. Okay.</p> <p>2 Q. But in fact, January 26, 2017, the local union</p> <p>3 posts from the Women's March a poster saying, "My</p> <p>4 body, my choice"? Based on this document, right?</p> <p>5 A. It shows a picture saying that statement, yes.</p> <p>6 Q. Is that consistent or inconsistent with what</p> <p>7 she told you?</p> <p>8 A. I would say that it is inconsistent, if this is</p> <p>9 specifically what it means.</p> <p>10 MR. PRYOR: Can you tell me the exhibit?</p> <p>11 Ninety-eight. Let's look at Exhibit 98.</p> <p>12 Is it in evidence?</p> <p>13 THE COURT: It is not.</p> <p>14 MR. PRYOR: I offer Exhibit 98.</p> <p>15 THE COURT: Ninety-eight, any objection?</p> <p>16 MR. McKEEBY: No objection from Southwest.</p> <p>17 THE COURT: Okay. How about the Union?</p> <p>18 MR. GREENFIELD: None, your Honor.</p> <p>19 THE COURT: Okay. It is admitted. We are</p> <p>20 publishing.</p> <p>21 (The referred-to document was admitted in</p> <p>22 Evidence as Trial Exhibit 98.)</p> <p>23 BY MR. PRYOR:</p> <p>24 Q. Mr. Schneider, are these the interview notes of</p> <p>25 the interview of Charlene Carter in regard to your</p>	<p style="text-align: right;">Page 1101</p> <p>1 investigation?</p> <p>2 A. Yes.</p> <p>3 Q. And as with the notes regarding Ms. Stone's</p> <p>4 interview, you believe that these are accurate?</p> <p>5 A. Yes.</p> <p>6 Q. Let's look at a couple things.</p> <p>7 Who is Eddie Barnett?</p> <p>8 A. That is the HR VP human resource business</p> <p>9 person for Southwest Airlines.</p> <p>10 Q. It says here, he says, this is my first case</p> <p>11 involving the guidelines for employees which</p> <p>12 includes the social media policy, and is the main</p> <p>13 reason I'm on the call.</p> <p>14 Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. Do you know if that is accurate?</p> <p>17 A. If she said it, then it must be accurate.</p> <p>18 Q. If she said it, it must be true?</p> <p>19 A. Correct.</p> <p>20 Q. You know her. You would believe her if she</p> <p>21 said it?</p> <p>22 A. Yes.</p> <p>23 Q. You don't know whether or not she opined</p> <p>24 regarding whether or not posts on Facebook of core</p> <p>25 team members of Audrey Stone violated social media</p>

<p style="text-align: right;">Page 1102</p> <p>1 policy?</p> <p>2 MR. McKEEBY: Objection, foundation, I</p> <p>3 don't know what --</p> <p>4 MR. PRYOR: I'm creating a foundation.</p> <p>5 THE COURT: I'll allow it.</p> <p>6 THE WITNESS: Okay. I did not follow your</p> <p>7 question.</p> <p>8 BY MR. PRYOR:</p> <p>9 Q. Yes.</p> <p>10 Do you know whether or not Eddie Barnett was</p> <p>11 involved in Southwest Airlines's decision whether or</p> <p>12 not to take action against core team members?</p> <p>13 MR. PRYOR: Hang on. Can I approach, your</p> <p>14 Honor?</p> <p>15 THE COURT: You may.</p> <p>16 (Thereupon, the following proceedings were</p> <p>17 had at sidebar:)</p> <p>18 MR. PRYOR: I just want to make sure I'm</p> <p>19 not violating. I'm just asking whether or not we</p> <p>20 believe Eddie Barnett said in regard to the core</p> <p>21 team members that it did not violate Southwest's</p> <p>22 policy because it was union-protected activity and</p> <p>23 not illegal. I'm not going to ask him that.</p> <p>24 MR. McKEEBY: I'm trying to understand.</p> <p>25 I'm confused.</p>	<p style="text-align: right;">Page 1103</p> <p>1 MR. PRYOR: I'm telling my basis for</p> <p>2 asking the question.</p> <p>3 The question is, do you know whether or</p> <p>4 not Eddie Barnett was involved in Southwest</p> <p>5 Airlines's decision in regard to what action to</p> <p>6 take, if any, against core team members making posts</p> <p>7 on the core team member Facebook page? I'm not</p> <p>8 asking what punishment. I am asking --</p> <p>9 MR. McKEEBY: I don't think I care. That</p> <p>10 question is okay.</p> <p>11 THE COURT: Yeah, I think that question is</p> <p>12 okay.</p> <p>13 MR. PRYOR: That is as far as I'll go.</p> <p>14 MR. McKEEBY: I appreciate that.</p> <p>15 The next one is not, I think we are all on</p> <p>16 the same page.</p> <p>17 MR. PRYOR: Well, I'm done after that one.</p> <p>18 MR. GREENFIELD: Your Honor, while we are</p> <p>19 here, so we don't have to come back and I don't have</p> <p>20 to object and bother the jury again, I will have a</p> <p>21 foundation argument objection if he doesn't set up</p> <p>22 that he has some sort of knowledge about the core</p> <p>23 team investigation.</p> <p>24 MR. PRYOR: Me?</p> <p>25 MR. GREENFIELD: Yeah.</p>
<p style="text-align: right;">Page 1104</p> <p>1 MR. PRYOR: I will take the stand.</p> <p>2 MR. GREENFIELD: I just --</p> <p>3 MR. PRYOR: No, I'm willing to.</p> <p>4 MR. GREENFIELD: He has to ask --</p> <p>5 THE COURT: He is asking you to ask that</p> <p>6 question first, do you have knowledge about core</p> <p>7 team.</p> <p>8 MR. PRYOR: Oh, that is not near as much</p> <p>9 fun.</p> <p>10 MR. McKEEBY: I will put you up there.</p> <p>11 MR. PRYOR: Wait, if I have to do that --</p> <p>12 you are making me do that?</p> <p>13 THE COURT: I don't give advisory rulings.</p> <p>14 MR. PRYOR: Okay. Good. All right.</p> <p>15 THE COURT: So you can ask the question.</p> <p>16 (Thereupon, the sidebar was concluded and</p> <p>17 the following proceedings were held in open</p> <p>18 court:)</p> <p>19 THE COURT: Okay. You can ask your</p> <p>20 question.</p> <p>21 BY MR. PRYOR:</p> <p>22 Q. Sir, do you know whether or not Eddie Barnett</p> <p>23 was involved in Southwest Airlines's decision</p> <p>24 whether or not to take action against any persons</p> <p>25 making posts on what was referred to as a core team</p>	<p style="text-align: right;">Page 1105</p> <p>1 Facebook page in support of Audrey Stone?</p> <p>2 A. I do not know that.</p> <p>3 Q. Okay. Let's look at Exhibit 98.</p> <p>4 And the question is, do you see where it says,</p> <p>5 the first is a picture of an unborn infant, why were</p> <p>6 these posted on your Facebook page?</p> <p>7 Do you see that?</p> <p>8 A. I haven't found it yet, no.</p> <p>9 Q. Where that cursor is?</p> <p>10 A. Yes.</p> <p>11 Q. And Charlene's response is, I'm Christian. I'm</p> <p>12 a conservative and I'm pro life.</p> <p>13 You understood that at the time?</p> <p>14 A. Yes.</p> <p>15 Q. Let's go to the next page. And again, Ed says,</p> <p>16 she made the statement, I just want to know what she</p> <p>17 means by that. And then Charlene says, I had an</p> <p>18 abortion, I regret every bit of it, so I work with</p> <p>19 other pro life groups. And for me as a Christian.</p> <p>20 Again, she's telling this involves her religious</p> <p>21 belief, true?</p> <p>22 A. True.</p> <p>23 Q. Let's go to page 4.</p> <p>24 This is talking about a button she wore</p> <p>25 relating to Israel.</p>

<p style="text-align: right;">Page 1106</p> <p>1 By the way, do you know anything about that</p> <p>2 button?</p> <p>3 A. As part of the investigation, yes.</p> <p>4 Q. Okay. Do you recall that that is something she</p> <p>5 started wearing after 911 without any objection from</p> <p>6 Southwest Airlines?</p> <p>7 MR. GREENFIELD: Objection, your Honor.</p> <p>8 He's testifying, lack of foundation.</p> <p>9 THE COURT: I'll allow it.</p> <p>10 THE WITNESS: I had never seen her wearing</p> <p>11 that, so I don't know how long she had been wearing</p> <p>12 it or if she even wore it.</p> <p>13 BY MR. PRYOR:</p> <p>14 Q. The answer is you don't know? Did you inquire?</p> <p>15 Did you inquire?</p> <p>16 A. It shows it on the picture.</p> <p>17 Q. And from years ago, correct?</p> <p>18 A. I don't know the date.</p> <p>19 Q. Well, do you know that she told you she had</p> <p>20 been wearing it for years, without objection from</p> <p>21 Southwest Airlines? Until now, apparently?</p> <p>22 A. Okay.</p> <p>23 Q. And the part I'm reading, it is in the middle,</p> <p>24 it says, my love for that country through my</p> <p>25 Christian, you know, beliefs, my belief system.</p>	<p style="text-align: right;">Page 1107</p> <p>1 She's again telling you she's exercising her</p> <p>2 religious beliefs, true?</p> <p>3 A. Yes.</p> <p>4 Q. And if you look at the bottom of page 5, you</p> <p>5 can read from there and then read the next, and then</p> <p>6 into the next page.</p> <p>7 Do you see where it says, she's our union</p> <p>8 president?</p> <p>9 Do you see that? Towards the bottom?</p> <p>10 A. Who is saying it, Charlene?</p> <p>11 Q. She is our union president?</p> <p>12 A. Oh.</p> <p>13 Q. And then on the next page -- and the poor</p> <p>14 person taking notes must have been -- who took the</p> <p>15 notes?</p> <p>16 A. Meggan Jones.</p> <p>17 Q. The lady over here?</p> <p>18 A. Yes. That is her.</p> <p>19 Q. She goes on -- and you don't have to read it</p> <p>20 all -- she goes on and explains that she's opposed</p> <p>21 to her union being involved in this march, right?</p> <p>22 A. Yes.</p> <p>23 Q. And then she says, if you go down, says, they</p> <p>24 support Planned Parenthood. They march right</p> <p>25 alongside with them.</p>
<p style="text-align: right;">Page 1108</p> <p>1 Do you see that?</p> <p>2 A. Not yet. Is it near the top?</p> <p>3 Oh, down there. Okay.</p> <p>4 Q. Do you see where it says "they support Planned</p> <p>5 Parenthood, they march right along with them"?</p> <p>6 A. Right.</p> <p>7 Q. Does that refresh your recollection as opposed</p> <p>8 to what you told us this morning, you don't recall</p> <p>9 anything about Planned Parenthood?</p> <p>10 A. I was not aware that it was Planned Parenthood.</p> <p>11 As far as I knew, it was a Women's March for women's</p> <p>12 rights.</p> <p>13 Q. She was telling you that the march was</p> <p>14 supported by Planned Parenthood, and that is what</p> <p>15 she objected to.</p> <p>16 And you missed that point entirely?</p> <p>17 A. No. She stated that.</p> <p>18 Q. Okay.</p> <p>19 And you --</p> <p>20 A. I didn't see the evidence for it.</p> <p>21 Q. Well, did you ask for evidence? Did you</p> <p>22 disagree with it?</p> <p>23 A. She showed pictures of the Union banner, but I</p> <p>24 didn't see any Planned Parenthood symbols on any of</p> <p>25 the -- or the Union pictures or banners.</p>	<p style="text-align: right;">Page 1109</p> <p>1 Q. Did you see pictures of the Union marching with</p> <p>2 Southwest Airlines' name on their banner?</p> <p>3 A. The local TWU 556 of Southwest flight</p> <p>4 attendants was written on there, yes.</p> <p>5 Q. And was any action taken for the posts from</p> <p>6 that march that said pro life and having a nexus to</p> <p>7 Southwest Airlines? Not five years ago, but 30</p> <p>8 minutes ago?</p> <p>9 MR. McKEEBY: Objection, foundation.</p> <p>10 Facts not in evidence.</p> <p>11 THE COURT: Sustained.</p> <p>12 MR. PRYOR: What is not in evidence?</p> <p>13 MR. McKEEBY: I will tell you what is not</p> <p>14 in evidence. I'm not sure if --</p> <p>15 THE COURT: Sidebar.</p> <p>16 MR. McKEEBY: Not comfortable responding</p> <p>17 to counsel.</p> <p>18 THE COURT: Sidebar.</p> <p>19 (Thereupon, the following proceedings were</p> <p>20 had at sidebar:)</p> <p>21 MR. McKEEBY: Well, your question said</p> <p>22 that there was a picture of a sign that said</p> <p>23 Southwest Airlines and pro choice.</p> <p>24 MR. PRYOR: No, I didn't.</p> <p>25 MR. McKEEBY: Yes, you did.</p>

<p style="text-align: right;">Page 1110</p> <p>1 MR. PRYOR: No. Repeat it. I didn't. I</p> <p>2 am a little bit tired of being accused of things I</p> <p>3 didn't do. Read it.</p> <p>4 MR. McKEEBY: Okay. If I misheard that --</p> <p>5 that is what I heard.</p> <p>6 THE COURT: That is what I heard, too.</p> <p>7 MR. PRYOR: Okay. Well, let me -- that is</p> <p>8 not what I said.</p> <p>9 I will rephrase it, then.</p> <p>10 THE COURT: Okay.</p> <p>11 (Thereupon, the sidebar was concluded and</p> <p>12 the following proceedings were held in open</p> <p>13 court:)</p> <p>14 BY MR. PRYOR:</p> <p>15 Q. You are aware that there was a banner at the</p> <p>16 march used by Local 556 that said Southwest</p> <p>17 Airlines, true?</p> <p>18 A. It said TWU 556, the meeting of Southwest</p> <p>19 Airlines flight attendants.</p> <p>20 Q. So associated with Southwest Airlines, right?</p> <p>21 That is your brand?</p> <p>22 A. That is associated with the Union of Southwest</p> <p>23 Airlines.</p> <p>24 Q. So if you say "union," then it doesn't matter,</p> <p>25 right?</p>	<p style="text-align: right;">Page 1111</p> <p>1 A. I don't know. I'm just stating what it said.</p> <p>2 That is all I'm saying.</p> <p>3 Q. And I showed you earlier a picture from the</p> <p>4 march that referenced pro choice, true?</p> <p>5 A. No. It said "My body, my choice," it said.</p> <p>6 Q. All right.</p> <p>7 So I'm going to represent to you, since you</p> <p>8 don't know, that that is a pro choice position on</p> <p>9 abortion.</p> <p>10 Now, you got these two things, you have</p> <p>11 Southwest Airlines -- and it is on the post, it is</p> <p>12 on the same Facebook post the same day as the post</p> <p>13 that says pro choice.</p> <p>14 You got it?</p> <p>15 MR. McKEEBY: Objection, this is argument</p> <p>16 again.</p> <p>17 THE COURT: I'll allow this.</p> <p>18 BY MR. PRYOR</p> <p>19 Q. So you have got these two facts. So is that a</p> <p>20 nexus? Or does it have to be five years ago to be a</p> <p>21 nexus?</p> <p>22 A. I didn't see it on the same page, if that is</p> <p>23 what you are asking me.</p> <p>24 Q. So it has to be on the same page?</p> <p>25 A. No. I'm trying to clarify your question. You</p>
<p style="text-align: right;">Page 1112</p> <p>1 said, if they are on the same page, and I'm just</p> <p>2 trying to clarify what page you are talking about.</p> <p>3 Q. The page I showed -- the Facebook page I showed</p> <p>4 you earlier that says, pro choice?</p> <p>5 A. That said, "My body, my choice"?</p> <p>6 Q. That's right.</p> <p>7 A. Yes.</p> <p>8 Q. And on that same Facebook page, I don't know,</p> <p>9 you may have to scroll for two seconds to get to</p> <p>10 it -- there is the banner that says Southwest</p> <p>11 Airlines, you are aware of that?</p> <p>12 A. If it is on there, yes.</p> <p>13 Q. And I'm saying, which is a closer nexus to</p> <p>14 taking a position on abortion on behalf of Southwest</p> <p>15 Airlines, that post that is within a few seconds of</p> <p>16 each other, or one that is three, four, five years</p> <p>17 apart?</p> <p>18 A. As far as -- if it is going to result in</p> <p>19 discipline, it the egregiousness of the post-type</p> <p>20 thing. That is a stand. And I'm not investigating</p> <p>21 that.</p> <p>22 Q. Which is a closer nexus?</p> <p>23 A. Closer how?</p> <p>24 Q. Closer in time. How about that?</p> <p>25 A. Probably if it is on the same -- in the same</p>	<p style="text-align: right;">Page 1113</p> <p>1 day, that is closer.</p> <p>2 Q. Probably?</p> <p>3 A. I don't know when the other posts were. I</p> <p>4 don't have dates and times of every post.</p> <p>5 Q. I told you to assume it was in the same day,</p> <p>6 within seconds, but that is okay. It is only</p> <p>7 possible that that one is closer in time than five</p> <p>8 years.</p> <p>9 I will accept your answer and move on.</p> <p>10 MR. PRYOR: Exhibit 111. And I offer into</p> <p>11 evidence Trial Exhibit 111.</p> <p>12 THE COURT: 111. Any objections to 111?</p> <p>13 MR. McKEEBY: No objections from</p> <p>14 Southwest.</p> <p>15 THE COURT: How about from the union?</p> <p>16 MR. GREENFIELD: No, your Honor.</p> <p>17 THE COURT: Okay. 111 is in. We are</p> <p>18 publishing.</p> <p>19 (The referred-to document was admitted in</p> <p>20 Evidence as Trial Exhibit 111.)</p> <p>21 BY MR. PRYOR:</p> <p>22 Q. You are familiar with Exhibit 111 in some</p> <p>23 emails, some you authored and some you received?</p> <p>24 A. Yes.</p> <p>25 Q. Let's start at the bottom one. Denise</p>

<p style="text-align: right;">Page 1114</p> <p>1 Gutierrez, she's with employee relations?</p> <p>2 A. Is that a question? Yes, she is.</p> <p>3 Q. Let's go to the second page, at the top.</p> <p>4 And it says, while the videos depicting</p> <p>5 abortion are considered to be offensive, they do not</p> <p>6 violate the company's harassment, sexual harassment,</p> <p>7 discrimination and retaliation policy, but they</p> <p>8 should be addressed.</p> <p>9 That is what they told you, isn't it?</p> <p>10 A. Yes.</p> <p>11 Q. So did you agree with them? Or did it matter?</p> <p>12 A. I agreed with them.</p> <p>13 Q. Okay. So two of the three the buckets, two of</p> <p>14 them didn't violate any harassment policies, right?</p> <p>15 A. Correct.</p> <p>16 Q. And then it says, however, the images of women</p> <p>17 dressed as vaginas do violate the aforementioned</p> <p>18 policy due to their sexual nature.</p> <p>19 So they concluded that the vagina pictures</p> <p>20 violated the policy, true?</p> <p>21 A. Yes.</p> <p>22 Q. And then you respond, I have attached the</p> <p>23 termination letter. Do you want me to add</p> <p>24 harassment policy? True?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 1115</p> <p>1 Q. And this is your draft letter attached. And it</p> <p>2 says, under the reasons for termination, one,</p> <p>3 Southwest Airlines's social media policy, right?</p> <p>4 A. I don't see it on here.</p> <p>5 Q. I'll get the letter for you; it's the</p> <p>6 attachment.</p> <p>7 A. Okay. Yes. It does say "social media policy."</p> <p>8 Q. And then it says, "bullying policy." They</p> <p>9 don't have a bullying policy at Southwest Airlines,</p> <p>10 do they?</p> <p>11 A. It is depicting the same policy. But that was</p> <p>12 something that needed to be edited.</p> <p>13 Q. I understand.</p> <p>14 Do they have a bullying policy at Southwest</p> <p>15 Airlines? As opposed to a workplace bullying</p> <p>16 policy?</p> <p>17 A. It is semantics, but it is referring to the</p> <p>18 same thing.</p> <p>19 Q. There is no reason that you were wanting to</p> <p>20 leave out "workplace" though, right?</p> <p>21 A. No.</p> <p>22 Q. And under the third one, it says, workplace</p> <p>23 rules 3.0.0. And that did not find its way into the</p> <p>24 final termination letter, correct?</p> <p>25 A. It refers to it in part.</p>
<p style="text-align: right;">Page 1116</p> <p>1 Q. Does it reference this policy as being a basis</p> <p>2 for termination?</p> <p>3 A. Not specifically, no.</p> <p>4 Q. Does "not specifically" mean no or is this</p> <p>5 another where you think generally, it might?</p> <p>6 A. No. If we look at the letter, there is a</p> <p>7 statement in there that references --</p> <p>8 Q. 3.0.0?</p> <p>9 A. It doesn't say it specifically. I have to</p> <p>10 read -- look at the letter again to know for sure,</p> <p>11 the final termination letter.</p> <p>12 Q. It doesn't specifically say 3.0.0, but</p> <p>13 generally says it?</p> <p>14 A. It says it could violate other areas. And I</p> <p>15 don't know specifically the wording.</p> <p>16 Q. I'm not asking about could. I'm trying to ask</p> <p>17 about the policies that were part of the termination</p> <p>18 in 3.0.0 were not part of the determination</p> <p>19 decision, true?</p> <p>20 A. True.</p> <p>21 Q. And, in fact, the harassment policy was not</p> <p>22 included either, was it?</p> <p>23 A. Once again, it referred to, it could have been</p> <p>24 violated. It doesn't specifically say it was.</p> <p>25 Q. It doesn't generally say it was; it says it</p>	<p style="text-align: right;">Page 1117</p> <p>1 could.</p> <p>2 A. Correct.</p> <p>3 Q. It doesn't anywhere say she was fired for</p> <p>4 harassment policy, true?</p> <p>5 A. Other than referencing it in there?</p> <p>6 Q. Referencing that it could have --</p> <p>7 A. Correct.</p> <p>8 Q. -- but that is not the reason. You gave two</p> <p>9 reasons --</p> <p>10 A. Correct.</p> <p>11 Q. -- workplace bullying and social media policy?</p> <p>12 A. Yes.</p> <p>13 Q. Workplace bullying that you don't know took</p> <p>14 place at the workplace and social media policy, is</p> <p>15 that fair?</p> <p>16 A. Correct.</p> <p>17 Q. Why was harassment not included?</p> <p>18 A. Because it was partially a violation, and we</p> <p>19 didn't want to put something in there that was</p> <p>20 partially violated because it wouldn't be as strong</p> <p>21 as the other two.</p> <p>22 MR. PRYOR: Okay. Let's look at Exhibit</p> <p>23 115. I move for its admission. It may already be</p> <p>24 in. I don't know.</p> <p>25 THE COURT: 115. It is in.</p>

<p style="text-align: right;">Page 1118</p> <p>1 So I will ask, any objections?</p> <p>2 MR. McKEEBY: No objections from</p> <p>3 Southwest.</p> <p>4 MR. GREENFIELD: None, your Honor.</p> <p>5 THE COURT: Okay. 115 is in. We are</p> <p>6 publishing.</p> <p>7 MR. PRYOR: Yes.</p> <p>8 (The referred-to document was admitted in</p> <p>9 Evidence as Trial Exhibit 115.)</p> <p>10 BY MR. PRYOR:</p> <p>11 Q. Let's look at the final version. It says in</p> <p>12 the second paragraph, during the meeting you</p> <p>13 admitted you posted graphic videos of aborted</p> <p>14 fetuses on Facebook and sent those videos in a</p> <p>15 private Facebook message to another Southwest flight</p> <p>16 attendant.</p> <p>17 Is that what it says?</p> <p>18 A. Yes.</p> <p>19 Q. Why doesn't it reference that it was sent to</p> <p>20 her as union president, as you have told us?</p> <p>21 A. We are protecting one of our employees.</p> <p>22 Q. I understand. But you have told us as to all</p> <p>23 three buckets, you understood she was sending it to</p> <p>24 Audrey Stone and the Union complaining about union</p> <p>25 activity.</p>	<p style="text-align: right;">Page 1119</p> <p>1 Do you understand -- I understand Audrey Stone</p> <p>2 is a flight attendant, although, she wasn't working</p> <p>3 as a flight attendant at the time, was she?</p> <p>4 MR. McKEEBY: Objection, compound.</p> <p>5 MR. PRYOR: I will remove it.</p> <p>6 BY MR. PRYOR:</p> <p>7 Q. Was she working as a flight attendant at time</p> <p>8 any of these posts were sent to her?</p> <p>9 A. She was still an employee of Southwest</p> <p>10 Airlines, but she was doing union business, yes.</p> <p>11 Q. She was not acting as a flight attendant at the</p> <p>12 time she received any of these posts, true?</p> <p>13 A. It is loosely how you say "she was acting as a</p> <p>14 flight attendant." She was still an active flight</p> <p>15 attendant who is certified.</p> <p>16 Q. Under that definition, she will be a flight</p> <p>17 attendant until she dies.</p> <p>18 I'm asking you --</p> <p>19 MR. GREENFIELD: Objection, your Honor, to</p> <p>20 the sidebars continuing.</p> <p>21 THE COURT: Sustained.</p> <p>22 MR. PRYOR: I withdraw that.</p> <p>23 BY MR. PRYOR:</p> <p>24 Q. So she was not acting as a flight attendant at</p> <p>25 the time she received any of these messages that she</p>
<p style="text-align: right;">Page 1120</p> <p>1 received from Charlene Carter, true?</p> <p>2 A. True. In the sense of the word.</p> <p>3 Q. But she was acting as union president, true?</p> <p>4 A. Yes.</p> <p>5 Q. You don't mention that here, correct?</p> <p>6 A. Correct.</p> <p>7 Q. And then it says, in the next paragraph,</p> <p>8 Charlene, when you posted the graphic videos and</p> <p>9 pictures on Facebook, you were identifiable as a</p> <p>10 Southwest Airlines employee and represented our</p> <p>11 company and a manager, disparaging flight</p> <p>12 attendants, as well as to all Southwest employees.</p> <p>13 That is what you wrote?</p> <p>14 A. Yes.</p> <p>15 Q. And the post you are referring to are the posts</p> <p>16 we talked about earlier that were years before?</p> <p>17 A. The posts of the aborted fetus?</p> <p>18 Q. No. The post that you say she represented --</p> <p>19 you say that, you were identifiable as a Southwest</p> <p>20 Airlines employee and represented our company.</p> <p>21 So those posts from years ago, you are saying</p> <p>22 she was representing Southwest Airlines in regard to</p> <p>23 those abortion videos that are three, four years</p> <p>24 apart?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 1121</p> <p>1 Q. Then you say, although your posts and messages</p> <p>2 may have been made and/or sent outside of work, so</p> <p>3 you are acknowledging here, you knew it did not take</p> <p>4 place in the workplace, right?</p> <p>5 A. I said may have been.</p> <p>6 Q. May have been made or sent. That about covers</p> <p>7 the gambit. By saying "may," you think that they</p> <p>8 actually did occur in the workplace?</p> <p>9 A. I'm not saying it did or didn't. I'm just</p> <p>10 saying it could have. And -- or it might have been</p> <p>11 outside, but it still represented the company.</p> <p>12 Q. Well, not workplace, then.</p> <p>13 MR. McKEEBY: Objection; that is argument.</p> <p>14 THE COURT: You can ask it as a question.</p> <p>15 BY MR. PRYOR:</p> <p>16 Q. It is not workplace, then, is it?</p> <p>17 A. What is not workplace?</p> <p>18 Q. If she's not doing it in the workplace, it is</p> <p>19 not workplace?</p> <p>20 A. It is not workplace, correct.</p> <p>21 Q. And she was terminated, in part, for violating</p> <p>22 the workplace bullying/hazing policy, right?</p> <p>23 A. Yes.</p> <p>24 Q. Do you know that Southwest Airlines, as part of</p> <p>25 its agreement with the Union, tracks Southwest</p>

<p style="text-align: right;">Page 1122</p> <p>1 Airlines's reprimanding of employees? You have to 2 keep a record of it and the Union gets it? 3 A. Okay. 4 Q. You don't know that? 5 A. I'm not following the question. I was -- 6 Q. I'm saying, do you accept what I'm telling you 7 so far? That your company keeps a record of every 8 kind of employee that gets a punishment, and they 9 say, here is how many social media policies we had 10 this year, here is how many 30-day suspensions we 11 had? 12 A. Yes. 13 Q. You know they do that? 14 A. Yes. 15 Q. And do you know that they are required to, 16 right? 17 A. I know they do. I don't know about the 18 requirement. 19 Q. And they have all kind of categories, including 20 workplace bullying and hazing policy and social 21 media and sexual harassment. They keep all of that? 22 A. Okay. 23 Q. Right? Are you aware of that? 24 A. I have seen some stats on that. I'm not aware 25 of how detailed the collection of that is.</p>	<p style="text-align: right;">Page 1123</p> <p>1 Q. Do you know that there is not a single record 2 in the history of Southwest Airlines of anyone being 3 terminated or reprimanded for a violation of the 4 mission statement? 5 A. No, I wasn't aware of that. 6 Q. And in fact, you include -- they don't even 7 keep a record of that. You are not aware of that? 8 MR. GREENFIELD: Objection, your Honor, 9 lack of foundation. 10 THE COURT: Sustained. 11 BY MR. PRYOR: 12 Q. Are you aware of whether or not the company 13 keeps track of purported violations of the company's 14 mission statement? 15 A. No. 16 Q. But you include mission statement in your 17 termination letter, true? 18 A. True. 19 Q. Had you ever done that before ever? 20 A. It seems like we have referred to it in the 21 past. 22 Q. Have you ever, to your recollection -- let's go 23 back that. 24 Have you ever terminated anyone prior to this 25 for violation of social media policy?</p>
<p style="text-align: right;">Page 1124</p> <p>1 A. Yes. 2 Q. Who? 3 A. Or no -- you said for -- terminated violation? 4 MR. PRYOR: I withdraw the question. 5 BY MR. PRYOR: 6 Q. It is fair to say you have never, as of the 7 time of terminating Charlene Carter, never 8 terminated anyone for violation of the company's 9 social media policy? 10 THE COURT: I'm not aware of that. 11 MR. McKEEBY: Objection. Objection, 12 relevance. Prejudice. Motion in limine. 13 THE COURT: Limine. 14 MR. McKEEBY: I'm sorry? 15 THE COURT: It is limine. 16 MR. PRYOR: Sustained? 17 THE COURT: Yes. 18 BY MR. PRYOR: 19 Q. There is nothing in the termination letter 20 referring to Charlene Carter having threatened 21 Ms. Stone, correct? 22 A. No. 23 MR. PRYOR: Let's look at Exhibit 64. I 24 move to introduce Exhibit 64. 25 THE COURT: Sixty-four.</p>	<p style="text-align: right;">Page 1125</p> <p>1 MR. PRYOR: They are calling it up. 2 THE COURT: Okay. Objections -- prior 3 objections? 4 MR. McKEEBY: Sorry. No objections. 5 MR. GREENFIELD: None, your Honor. 6 THE COURT: Sixty-four is in. We can 7 publish. 8 (The referred-to document was admitted in 9 Evidence as Trial Exhibit 64.) 10 BY MR. PRYOR: 11 Q. And can you identify Exhibit 64 as what you 12 understood Charlene Carter to have posted on her 13 Facebook page that is one of the three buckets that 14 she was terminated for? 15 A. Yes. 16 MR. PRYOR: And let's look at Exhibit 107. 17 MR. GILLIAM: Move for admission. 18 MR. PRYOR: I move for the introduction 19 admission of Exhibit 107. 20 THE COURT: 107. 21 Any objections to 107? 22 MR. McKEEBY: No objection from Southwest. 23 THE COURT: How about the Union? 24 MR. GREENFIELD: None, your Honor. 25 THE COURT: Okay. 107 is in. We are</p>

<p style="text-align: right;">Page 1126</p> <p>1 publishing.</p> <p>2 (The referred-to document was admitted in</p> <p>3 Evidence as Trial Exhibit 107.)</p> <p>4 BY MR. PRYOR:</p> <p>5 Q. Can you identify Exhibit 107?</p> <p>6 A. Yes.</p> <p>7 Q. Are these your -- tell me what it is.</p> <p>8 A. It is a summary of my investigation sent to</p> <p>9 labor relations and employee relations, and HR VP.</p> <p>10 Q. And in the first paragraph you say, she stated</p> <p>11 that Charlene Carter has been making comments that</p> <p>12 indicated she was not union friendly since 2008.</p> <p>13 Audrey Stone became president of TWU in 2013, and</p> <p>14 she stated Charlene has been sending her messages</p> <p>15 since that time, before there were any issues due to</p> <p>16 abortion or women's rights. True?</p> <p>17 A. That is what it states, yes.</p> <p>18 Q. I'm looking for a particular sentence.</p> <p>19 Here we go, one, two -- in the third paragraph,</p> <p>20 it says "In our fact-finding meeting with Charlene</p> <p>21 she openly admitted to sending Facebook messages to</p> <p>22 Audrey for at least the past two years. She latched</p> <p>23 on to the Women's March and abortion issues as her</p> <p>24 defense, stating it was her values as a Christian,</p> <p>25 but the harassment has been going on much longer."</p>	<p style="text-align: right;">Page 1127</p> <p>1 Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. What harassment?</p> <p>4 A. The continuous messages sent to Audrey Stone.</p> <p>5 Q. So the messages that were sent by Charlene</p> <p>6 Carter complaining about her union is what you are</p> <p>7 referring to as the harassment?</p> <p>8 A. Yes.</p> <p>9 Q. It says, Charlene has been barraging Audrey</p> <p>10 with Facebook messages, rantings since March 2015,</p> <p>11 has incessantly called her morally bankrupt, no</p> <p>12 integrity, corrupt and inept.</p> <p>13 Do you see that?</p> <p>14 A. She just got it up. Yes, I see it at the</p> <p>15 bottom.</p> <p>16 Q. And you considered her union communications to</p> <p>17 be her incessantly doing those things?</p> <p>18 A. Yes.</p> <p>19 Q. Then on the next page, you once again refer to</p> <p>20 it as a bullying and hazing policy, don't you? It's</p> <p>21 coming up.</p> <p>22 A. Yes.</p> <p>23 Q. Did you not realize that it had to take place</p> <p>24 in the workplace?</p> <p>25 A. On the final letter I did.</p>
<p style="text-align: right;">Page 1128</p> <p>1 Q. Were you aware of it at the time that you took</p> <p>2 the actions that you did against Ms. Carter?</p> <p>3 A. You mean as far as placing the word "workplace"</p> <p>4 in it or what are you asking?</p> <p>5 Q. I'm asking whether or not you thought it was a</p> <p>6 bullying and hazing policy or a workplace bullying</p> <p>7 and hazing policy?</p> <p>8 A. The workplace bullying and hazing policy could</p> <p>9 be referring to our workplace policy. It involves</p> <p>10 all of our employees. It doesn't -- they may not</p> <p>11 specifically mean it has to happen in the workplace.</p> <p>12 It is a workplace bullying and hazing, it covers all</p> <p>13 employees.</p> <p>14 Q. But whether they are in the workplace or not,</p> <p>15 right?</p> <p>16 A. I don't know because --</p> <p>17 Q. You don't know?</p> <p>18 A. -- there are two different opinions on there.</p> <p>19 I mean, you are saying -- you are making it that it</p> <p>20 is specifically in the workplace only, but --</p> <p>21 Q. I'm just reading what your policy says, sir.</p> <p>22 But you're telling me that "workplace" is really</p> <p>23 kind of an optional word there, right?</p> <p>24 MR. McKEEBY: Objection, mischaracterizes.</p> <p>25 THE COURT: Sustained.</p>	<p style="text-align: right;">Page 1129</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. You are saying that the workplace bullying and</p> <p>3 hazing policy doesn't necessarily just apply to the</p> <p>4 workplace? True?</p> <p>5 A. I'm saying that it covers all employees towards</p> <p>6 each other. That is what I'm saying.</p> <p>7 Q. Does it require the activity to be at the</p> <p>8 workplace or not?</p> <p>9 A. I -- I think that it can be in the workplace.</p> <p>10 It has to do with covering our employees, more than</p> <p>11 anything.</p> <p>12 Q. Okay. Is it limited to the workplace as stated</p> <p>13 in the policy or not?</p> <p>14 MR. McKEEBY: Objection, asked and</p> <p>15 answered.</p> <p>16 THE COURT: I'll allow it.</p> <p>17 THE WITNESS: I don't know whether that is</p> <p>18 stated in there or not, that it has to be in the</p> <p>19 workplace.</p> <p>20 BY MR. PRYOR:</p> <p>21 Q. It says "workplace bullying."</p> <p>22 A. Right.</p> <p>23 Q. That is what I mean when I say it's at the top</p> <p>24 in bold and it is in the statement itself.</p> <p>25 So where it says "workplace bullying," what it</p>

<p style="text-align: right;">Page 1130</p> <p>1 really means is workplace, and we're also going to</p> <p>2 be big brother everywhere else, right?</p> <p>3 MR. McKEEBY: Object to the</p> <p>4 characterization.</p> <p>5 MR. PRYOR: It seems fair.</p> <p>6 THE COURT: I'll allow it.</p> <p>7 BY MR. PRYOR:</p> <p>8 Q. Go ahead. You can answer.</p> <p>9 A. It covers the workplace and it covers how we</p> <p>10 treat each other in the workplace. It could be</p> <p>11 harassing. It could be an event that we sponsor.</p> <p>12 There is different facets of it that could be true.</p> <p>13 MR. PRYOR: Let's look at Exhibit 98.</p> <p>14 THE WITNESS: Matt, can you show me where</p> <p>15 that is at?</p> <p>16 BY MR. PRYOR:</p> <p>17 Q. Do you recognize this is as your interview</p> <p>18 notes or interview notes of Ms. Carter? We talked</p> <p>19 about them earlier.</p> <p>20 A. Yes.</p> <p>21 MR. McKEEBY: Can we wait until one lawyer</p> <p>22 is at the podium?</p> <p>23 MR. PRYOR: Sure.</p> <p>24 MR. McKEEBY: I'm asking the judge, but --</p> <p>25 THE COURT: Yes. We can. We can wait to</p>	<p style="text-align: right;">Page 1131</p> <p>1 ask questions until we are down to one.</p> <p>2 BY MR. PRYOR:</p> <p>3 Q. Got it. Let's go to page 2.</p> <p>4 In response to a question, Ed says, it affects</p> <p>5 people when they see it. What is being depicted on</p> <p>6 the video?</p> <p>7 And according to the notes of the meeting that</p> <p>8 you think are accurate, she said, it is an abortion,</p> <p>9 it is a baby. People say it is just cells; that is</p> <p>10 not just a tissue, it is a baby. It shows someone</p> <p>11 who made the same mistake that I did and they need</p> <p>12 to understand, they need to know that it is a life</p> <p>13 and not just a bunch of tissue. That is my stance.</p> <p>14 Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. That is what she told you?</p> <p>17 A. Yes.</p> <p>18 Q. Did you consider that in your termination</p> <p>19 decision?</p> <p>20 A. Consider what? Her stand?</p> <p>21 Q. Her telling you why she did that?</p> <p>22 A. Yes.</p> <p>23 Q. What consideration did you give it?</p> <p>24 A. That that is her stand and that is where her</p> <p>25 belief is.</p>
<p style="text-align: right;">Page 1132</p> <p>1 Q. But that was -- that belief was not taken into</p> <p>2 consideration in regard to the termination?</p> <p>3 MR. McKEEBY: Objection, asked and</p> <p>4 answered.</p> <p>5 THE COURT: Sustained.</p> <p>6 BY MR. PRYOR:</p> <p>7 Q. So your -- what you told me earlier is that the</p> <p>8 videos were offensive and that is why you terminated</p> <p>9 her.</p> <p>10 Those three buckets. Right?</p> <p>11 A. Yes.</p> <p>12 Q. All right.</p> <p>13 MR. PRYOR: Pass the witness.</p> <p>14 THE COURT: All right. So who is going to</p> <p>15 ask questions first? Is it you, Mr. McKeeby, or</p> <p>16 you, Mr. Greenfield?</p> <p>17 MR. McKEEBY: Southwest intends to reserve</p> <p>18 its questions until its case-in-chief.</p> <p>19 THE COURT: Understood.</p> <p>20 Mr. Greenfield.</p> <p>21 MR. GREENFIELD: I will go ahead and ask</p> <p>22 now.</p> <p>23 THE COURT: You will go now? Okay.</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 1133</p> <p>1 CROSS-EXAMINATION</p> <p>2 BY MR. GREENFIELD:</p> <p>3 Q. Good morning, Mr. Schneider.</p> <p>4 A. Good morning.</p> <p>5 Q. My name is Adam Greenfield and I represent the</p> <p>6 Union. Have we ever met before?</p> <p>7 A. I don't believe so.</p> <p>8 Q. I don't believe so either. It is nice to meet</p> <p>9 you.</p> <p>10 Have you found many of counsel's questions</p> <p>11 confusing today?</p> <p>12 A. Yes.</p> <p>13 MR. PRYOR: Object, leading.</p> <p>14 MR. GREENFIELD: This is not my witness.</p> <p>15 MR. PRYOR: He's certainly not adverse.</p> <p>16 This is an employee of Southwest --</p> <p>17 THE COURT: I don't think that is a</p> <p>18 sufficient question. I know he can't lead him, but</p> <p>19 he's got to move up a different topic and set up a</p> <p>20 topic. I think that is fine.</p> <p>21 MR. McKEEBY: There is a technical issue.</p> <p>22 THE COURT: We are pulling your feed, but</p> <p>23 are you displaying anything right now?</p> <p>24 Okay. It is not pulling it up.</p> <p>25 There it is.</p>

<p style="text-align: right;">Page 1134</p> <p>1 Is this in evidence?</p> <p>2 MR. GREENFIELD: Yes.</p> <p>3 BY MR. GREENFIELD:</p> <p>4 Q. Mr. Schneider, this is Exhibit 56. Do you</p> <p>5 remember opposing counsel asking you about this</p> <p>6 document?</p> <p>7 A. Yes.</p> <p>8 Q. Okay.</p> <p>9 At the top of this page, it has -- it looks</p> <p>10 like a post from Jessica Parker shared TWU Local</p> <p>11 556's video, is that correct?</p> <p>12 A. Yes.</p> <p>13 Q. And what did Ms. Parker write?</p> <p>14 A. Why we marched.</p> <p>15 Q. All right. Now, on the picture, there is a</p> <p>16 statement there as well.</p> <p>17 Can you identify what that statement says?</p> <p>18 A. Equal pay.</p> <p>19 Q. Okay. Well, I'm specifically talking about the</p> <p>20 comment that was added to the photo.</p> <p>21 A. Women make only 80 cents for every dollar.</p> <p>22 MR. GREENFIELD: Thank you. You can take</p> <p>23 it down.</p> <p>24 BY MR. GREENFIELD:</p> <p>25 Q. I would like to talk to you about a couple</p>	<p style="text-align: right;">Page 1135</p> <p>1 things today, your duty to investigate and the</p> <p>2 decision you made to terminate Charlene Carter.</p> <p>3 Okay?</p> <p>4 A. Yes.</p> <p>5 Q. Let's start with the duty to investigate.</p> <p>6 All employees have a right to be free from</p> <p>7 bullying and harassment in the workplace, correct?</p> <p>8 A. Yes.</p> <p>9 Q. And to be free from threats of physical</p> <p>10 violence?</p> <p>11 A. Yes.</p> <p>12 Q. And if an employee brings you a complaint of</p> <p>13 that nature, either of those, you have a duty to</p> <p>14 investigate that, correct?</p> <p>15 A. Yes.</p> <p>16 Q. Now, I would like to go back to the</p> <p>17 hypothetical that opposing counsel raised, and I</p> <p>18 would like to complete that.</p> <p>19 Let's go back to Cabo. Do you remember Cabo?</p> <p>20 A. Yes.</p> <p>21 Q. Do you remember the hallway in Cabo?</p> <p>22 A. Yes.</p> <p>23 Q. Now, I would like to add on to that</p> <p>24 hypothetical.</p> <p>25 Let's say that one flight attendant says, I'm</p>
<p style="text-align: right;">Page 1136</p> <p>1 going to kick your butt the next time I see you back</p> <p>2 on line.</p> <p>3 Okay?</p> <p>4 A. Yes.</p> <p>5 Q. Now, is that a threat? If that was brought to</p> <p>6 you, you would have a duty to investigate?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Now, did that threat happen in the</p> <p>9 workplace?</p> <p>10 A. No.</p> <p>11 Q. But it would affect the workplace, correct?</p> <p>12 MR. PRYOR: Objection, leading.</p> <p>13 THE WITNESS: Correct.</p> <p>14 THE COURT: Sustained.</p> <p>15 MR. GREENFIELD: I will move on, your</p> <p>16 Honor.</p> <p>17 BY MR. GREENFIELD:</p> <p>18 Q. What is your understanding -- and I'm not</p> <p>19 calling for a legal conclusion here -- but what is</p> <p>20 your understanding legally could occur if you didn't</p> <p>21 investigate an employee of Southwest Airlines's</p> <p>22 legitimate complaint?</p> <p>23 MR. PRYOR: Object, lack of foundation,</p> <p>24 especially given that he says he is not a lawyer</p> <p>25 every time I asked a question.</p>	<p style="text-align: right;">Page 1137</p> <p>1 THE COURT: I'll allow it.</p> <p>2 BY MR. GREENFIELD:</p> <p>3 Q. Would you like me to ask it again?</p> <p>4 A. Yes, please.</p> <p>5 Q. What is your understanding legally could occur</p> <p>6 if you didn't investigate an employee legitimate</p> <p>7 complaint?</p> <p>8 A. I would be held --</p> <p>9 MR. PRYOR: Objection, lack of foundation.</p> <p>10 THE COURT: I'll allow it.</p> <p>11 BY MR. GREENFIELD:</p> <p>12 Q. Would you like me to ask it again, sir?</p> <p>13 A. No. I would be held responsible for not</p> <p>14 following through and investigating something that</p> <p>15 could be a violation of one of our policies.</p> <p>16 Q. Is it your brief that that could open up the</p> <p>17 company to liability?</p> <p>18 A. Yes.</p> <p>19 MR. PRYOR: Object, leading.</p> <p>20 THE COURT: Sustained.</p> <p>21 BY MR. GREENFIELD:</p> <p>22 Q. And Ms. Stone does not give up her rights as a</p> <p>23 flight attendant when she -- or as an employee of</p> <p>24 Southwest Airlines when she becomes president of the</p> <p>25 Union, does she?</p>

<p style="text-align: right;">Page 1138</p> <p>1 MR. PRYOR: Object, leading. 2 THE COURT: Hold on. 3 MR. GREENFIELD: I'm asking whether she 4 does or not. 5 THE COURT: Hold on. Yes, I will sustain 6 that. 7 BY MR. GREENFIELD: 8 Q. Do you know whether Ms. Stone gives up her 9 right as a flight attendant, an employee of 10 Southwest Airlines, when she becomes a union 11 president? 12 A. She does not. 13 Q. And in fact, at that time period, are you aware 14 whether or not Ms. Stone, the president of the Union 15 at that time, actually had a requirement to fly? 16 Did you know whether or not she had that or not? 17 MR. PRYOR: Object, lack of foundation. 18 THE COURT: I'll allow it. 19 THE WITNESS: I do not know that for sure. 20 BY MR. GREENFIELD: 21 Q. At any point in your tenure at Southwest, are 22 you aware of whether presidents had a flying 23 requirement during their term? 24 A. Yes. 25 Q. Does that help refresh your recollection as to</p>	<p style="text-align: right;">Page 1139</p> <p>1 whether Ms. Stone had that requirement? 2 A. She did. I just don't know the requirement, 3 hour or days. 4 Q. You don't know the specificity? 5 A. Correct. 6 Q. But you do understand that she did have a 7 requirement to fly during that time period? 8 A. Yes, she did. 9 Q. Back to your duty to investigate. 10 Did Audrey Stone's complaint trigger your duty 11 to investigate? 12 A. Yes. 13 MR. GREENFIELD: Can you pull up Exhibit 14 89? The next page. 15 BY MR. GREENFIELD: 16 Q. Now, if you look down the page, there is a line 17 that says -- and correct me if I read this wrong -- 18 Ed, do you have a note taker? 19 Do you see where I'm at? 20 A. Yes. 21 Q. Okay. And what is your response? 22 A. Yes, it is Janet Ray. 23 Q. So these aren't actually your notes, correct? 24 A. She took the notes and transcribed them and 25 then sent them to me, and I verified that they were</p>
<p style="text-align: right;">Page 1140</p> <p>1 the correct notes. 2 Q. But you didn't take these notes down, did you? 3 A. Correct. 4 Q. Okay. And are you aware that Ms. Stone 5 testified that she thought there were errors in the 6 notes taken in this document? Are you aware of 7 that? 8 MR. PRYOR: Object, lack of foundation. 9 He obviously is subject to the rule and would not be 10 aware of that. 11 THE COURT: Sustained. 12 MR. PRYOR: Also mischaracterizes what the 13 testimony was. 14 THE COURT: I have already ruled on your 15 first objection, so you can ask a new question. 16 BY MR. GREENFIELD: 17 Q. Would you be surprised if Ms. Stone disagreed 18 with the contents of these notes? 19 MR. PRYOR: Object, lack of foundation. 20 Object to the relevance of his surprise at Ms. Stone 21 realizing that this information came out. 22 THE COURT: I'll allow it. 23 THE WITNESS: Yes. 24 BY MR. GREENFIELD: 25 Q. That would surprise you?</p>	<p style="text-align: right;">Page 1141</p> <p>1 A. Yes. 2 Q. Now, is it fair to say that what we are looking 3 at is a Southwest Airlines record of notes taken, 4 not by you, from words spoken by Audrey Stone that 5 you are now being asked to testify about, is that 6 fair? 7 MR. PRYOR: Objection, asked and answered. 8 THE WITNESS: Yes. 9 MR. GREENFIELD: I don't believe I have 10 asked that question. 11 THE COURT: Hold on. 12 I'll allow that. 13 BY MR. GREENFIELD: 14 Q. Mr. Schneider, does this sound a little bit 15 like the telephone game to you? 16 A. It does, yes. 17 Q. I would like to move on to your decision to 18 terminate Charlene Carter. 19 A. Okay. 20 Q. Do you believe that your decision was 21 heavy-handed? 22 A. Yes. Definitely. 23 Q. And in fact, the company walked back from that 24 decision, isn't that correct? 25 A. What does that mean?</p>

<p style="text-align: right;">Page 1142</p> <p>1 MR. PRYOR: Leading.</p> <p>2 THE COURT: Sustained. Ask a new</p> <p>3 question.</p> <p>4 MR. GREENFIELD: Yes, your Honor.</p> <p>5 BY MR. GREENFIELD:</p> <p>6 Q. Is it your understanding that the company</p> <p>7 reduced the punishment to Ms. Carter?</p> <p>8 MR. PRYOR: Still object to lack of</p> <p>9 foundation and leading.</p> <p>10 MR. GREENFIELD: I'm asking if it is his</p> <p>11 understanding.</p> <p>12 THE COURT: I'll allow this.</p> <p>13 THE WITNESS: I didn't know it was</p> <p>14 reduced.</p> <p>15 MR. PRYOR: Hang on. Your Honor, may I</p> <p>16 approach?</p> <p>17 THE COURT: You may.</p> <p>18 (Thereupon, the following proceedings were</p> <p>19 had at sidebar:)</p> <p>20 THE COURT: Last chance, Step 2.</p> <p>21 MR. PRYOR: Your Honor, I now understand</p> <p>22 what he's asking. I object on the last chance</p> <p>23 letter as not being proper mitigation because it was</p> <p>24 not unfettered. She had to give up rights, and,</p> <p>25 therefore, it cannot be mitigation.</p>	<p style="text-align: right;">Page 1143</p> <p>1 MR. GREENFIELD: I'm not asking for</p> <p>2 purposes of mitigation.</p> <p>3 MR. PRYOR: Well, okay. Then it is very</p> <p>4 prejudicial.</p> <p>5 MR. GREENFIELD: Well, it goes to the DFR</p> <p>6 claim. It goes to what the Union has done to</p> <p>7 represent. And so if -- the Union believes -- the</p> <p>8 Union argued and represented Ms. Carter at those</p> <p>9 Step 2 hearings and got that termination reduced to</p> <p>10 a 30-day suspension.</p> <p>11 MR. PRYOR: That is absolutely false.</p> <p>12 Mike Sims testified he made that decision unfettered</p> <p>13 on his own without anyone consulting him or him</p> <p>14 thinking --</p> <p>15 THE COURT: We're too loud.</p> <p>16 MR. PRYOR: -- it was him.</p> <p>17 MR. GREENFIELD: It was a product of union</p> <p>18 -- the offer was a product --</p> <p>19 MR. PRYOR: Put on some evidence, then,</p> <p>20 because that is not what Mr. Sims said. That letter</p> <p>21 is inappropriate --</p> <p>22 MR. GREENFIELD: Mr. Sims has not</p> <p>23 testified about it.</p> <p>24 MR. ENIS: I know. You have no</p> <p>25 foundation.</p>
<p style="text-align: right;">Page 1144</p> <p>1 THE COURT: So what I will say is, I</p> <p>2 address in writing why I think it goes to</p> <p>3 mitigation, why mitigation is a question for the</p> <p>4 jury, not a question for me. And I think I agreed</p> <p>5 earlier that a jury could see maybe it is not</p> <p>6 mitigation. But that is up to them, not up to me.</p> <p>7 The question now is, is you are saying it</p> <p>8 is not for mitigation, because mitigation is really</p> <p>9 your thing.</p> <p>10 Then where are we at? That is what I'm</p> <p>11 trying to figure out.</p> <p>12 MR. GREENFIELD: Well, I still think it</p> <p>13 goes to the DFR claims. I don't disagree that the</p> <p>14 termination potentially -- the Union doesn't</p> <p>15 necessarily agree.</p> <p>16 THE COURT: You are claiming a DFR, that</p> <p>17 it is turning her in? Is there any other factual</p> <p>18 basis for the DFR claim?</p> <p>19 MR. PRYOR: For the DFR claim?</p> <p>20 THE COURT: Right.</p> <p>21 MR. PRYOR: Yes. They reported her.</p> <p>22 THE COURT: And that is what I said.</p> <p>23 My question was, is there anything else?</p> <p>24 Because if your only argument for the DFR claim is</p> <p>25 they reported her, anything after reporting her, I'm</p>	<p style="text-align: right;">Page 1145</p> <p>1 not sure is relevant.</p> <p>2 MR. PRYOR: Well, can --</p> <p>3 THE COURT: If it was another purpose,</p> <p>4 another way. I know mitigation is another purpose,</p> <p>5 if you are telling me this is. I don't see how that</p> <p>6 is relevant to the DFR claims.</p> <p>7 MR. GREENFIELD: Well, it goes -- they</p> <p>8 want to say that is the -- I'll wait.</p> <p>9 MR. PRYOR: Excuse me. I'll just listen,</p> <p>10 and he probably can respond better than me. Sorry,</p> <p>11 your Honor.</p> <p>12 MR. GREENFIELD: Our duty of fair</p> <p>13 representation, whether we -- that goes -- factors</p> <p>14 into. It is a built-in. The entire thing is a</p> <p>15 collective bargaining checks and balance system.</p> <p>16 Even if Ms. Stone turned her in, the</p> <p>17 actions of the Union were to fight for her to get</p> <p>18 her job back. It is a built-in checks and balances</p> <p>19 system, and that goes directly to the DFR claim.</p> <p>20 MR. GILLIAM: It's incorrect, your Honor.</p> <p>21 It's totally irrelevant. The duty of fair</p> <p>22 representation violation allegation in this case is</p> <p>23 the fact that Ms. Stone turned her in, in the first</p> <p>24 place.</p> <p>25 MR. GREENFIELD: Your Honor, you have</p>

<p style="text-align: right;">Page 1146</p> <p>1 already ruled on your motion in limine that the</p> <p>2 fact-finding meeting -- our representation at the</p> <p>3 fact-finding meeting, at the Step 2 hearing are</p> <p>4 already relevant. You have already ruled on that.</p> <p>5 MR. PRYOR: That is not what he's</p> <p>6 offering.</p> <p>7 THE COURT: Okay. Let's call our break.</p> <p>8 And I need to go back and refresh. You need to</p> <p>9 point me to in the amended limine order that</p> <p>10 controls the case, the page.</p> <p>11 So can you go do that before we break?</p> <p>12 And I'm going to look for that, too. Anyone who</p> <p>13 finds it, let me know.</p> <p>14 I know what I said on mitigation. I don't</p> <p>15 know what I said on DFR and the timeline post</p> <p>16 reporting. Does that make sense?</p> <p>17 MR. GREENFIELD: We may be able to</p> <p>18 shortcut this.</p> <p>19 THE COURT: What's that?</p> <p>20 MR. GREENFIELD: Can I ask Mr. Schneider</p> <p>21 whether or not he's aware of the reduction from a</p> <p>22 termination to a 30-day suspension? And I will move</p> <p>23 on after that.</p> <p>24 MR. PRYOR: I have no objection to that</p> <p>25 being asked outside the presence of the jury.</p>	<p style="text-align: right;">Page 1147</p> <p>1 THE COURT: Okay. Well, here's the thing,</p> <p>2 we are going to kick the jury out for the break.</p> <p>3 You can ask him that question, just to see if we</p> <p>4 still need to look up the amended limine order and</p> <p>5 we can do it. Understood?</p> <p>6 So jury goes out. You ask that question.</p> <p>7 And then we kick him off the stand. And then we</p> <p>8 figure out where in the limine order we need to look</p> <p>9 at, if we need to look at it.</p> <p>10 MR. GREENFIELD: Yes, your Honor.</p> <p>11 Understood.</p> <p>12 (Thereupon, the sidebar was concluded and</p> <p>13 the following proceedings were held in open</p> <p>14 court:)</p> <p>15 THE COURT: Okay. We are going to take</p> <p>16 our break because we have got to track down a legal</p> <p>17 issue. So first break is going to happen now.</p> <p>18 Let's come back at 2:30, 11 minutes.</p> <p>19 So same three instructions; you can only</p> <p>20 talk to your fellow jurors and court personnel,</p> <p>21 don't talk to anyone else, and don't do any research</p> <p>22 about the case. We will see you at 2:30.</p> <p>23 All rise.</p> <p>24 (The jurors exited the courtroom.)</p> <p>25 THE COURT: Hold on, Mr. Schneider. We</p>
<p style="text-align: right;">Page 1148</p> <p>1 need to ask him one more question while the jury is</p> <p>2 out before he takes his break.</p> <p>3 So, Mr. Pryor, you can go ahead and ask</p> <p>4 from counsel table -- or, sorry, it is you,</p> <p>5 Mr. Greenfield, the question you wanted to ask him.</p> <p>6 MR. GREENFIELD: Yes.</p> <p>7 ^P R O F F E R</p> <p>8 BY MR. GREENFIELD:</p> <p>9 Q. Are you aware of whether Ms. Carter's</p> <p>10 termination was reduced to a 30-day suspension?</p> <p>11 A. I know that it was offered.</p> <p>12 MR. GREENFIELD: Okay.</p> <p>13 Your Honor, is that an acceptable question</p> <p>14 to ask? Or is there an objection to that question?</p> <p>15 MR. PRYOR: He said he's not aware of it.</p> <p>16 THE COURT: Well, I think that is a</p> <p>17 question for him.</p> <p>18 MR. HILL: It was offered.</p> <p>19 MR. PRYOR: What was the question?</p> <p>20 MR. HILL: It was offered, but not</p> <p>21 accepted.</p> <p>22 THE COURT: The answer was, it was</p> <p>23 offered, not accepted.</p> <p>24 MR. HILL: Are you aware that she was</p> <p>25 offered a reduction to the 30-day suspension?</p>	<p style="text-align: right;">Page 1149</p> <p>1 MR. PRYOR: And what was his answer?</p> <p>2 THE COURT: It was offered, not accepted.</p> <p>3 MR. PRYOR: So he's aware of it?</p> <p>4 THE COURT: Yes.</p> <p>5 MR. PRYOR: Okay.</p> <p>6 THE COURT: So I think you can take your</p> <p>7 break now. And then we still have to talk after you</p> <p>8 leave the courtroom.</p> <p>9 (The witness exited the courtroom.)</p> <p>10 THE COURT: Okay. So he's out of the</p> <p>11 room. So the question is, do we still need to track</p> <p>12 down the limine ruling?</p> <p>13 So what is your position now,</p> <p>14 Mr. Greenfield?</p> <p>15 MR. GREENFIELD: I haven't be able to find</p> <p>16 it or looked for it in this time period.</p> <p>17 But if I also may expand the relevancy</p> <p>18 argument?</p> <p>19 THE COURT: You can say whatever you want</p> <p>20 to at this point.</p> <p>21 MR. GREENFIELD: Sure. The plaintiffs</p> <p>22 have consistently held that a conspiracy exists</p> <p>23 between the parties, and that the Union worked with</p> <p>24 Southwest Airlines to facilitate the termination of</p> <p>25 Charlene Carter. Okay?</p>

<p style="text-align: right;">Page 1150</p> <p>1 To be able to attack their theme of the</p> <p>2 case, we need to be able to show the efforts the</p> <p>3 Union made and the steps it went through to show</p> <p>4 that this isn't a conspiracy, which includes us</p> <p>5 working on her behalf to get this last chance</p> <p>6 agreement.</p> <p>7 THE COURT: Understood. I will look at</p> <p>8 the limine ruling. I will consider that argument.</p> <p>9 Anything that y'all want to say?</p> <p>10 MR. GILLIAM: Can we have a response to</p> <p>11 that?</p> <p>12 THE COURT: Yes.</p> <p>13 MR. GILLIAM: Okay. That is not the</p> <p>14 theory of the case at all. We allege a duty of fair</p> <p>15 representation violation against the Union; we</p> <p>16 represent an NRLA retaliation claim against the</p> <p>17 Union, and a Title VII violation carried against the</p> <p>18 Union. We don't allege any sort of conspiracy</p> <p>19 theory.</p> <p>20 What we allege is that the Union violated</p> <p>21 the duty of fair representation when Local 556</p> <p>22 President, Audrey Stone, turned in Ms. Carter and</p> <p>23 tried to get her fired. That is the basic theory of</p> <p>24 the case. The Union's representation after that is</p> <p>25 totally irrelevant.</p>	<p style="text-align: right;">Page 1151</p> <p>1 MR. GREENFIELD: Your Honor, if I could</p> <p>2 add a stipulation to that, please, because they have</p> <p>3 spent days putting on testimony that they think</p> <p>4 union members are cozying up to Southwest Airlines.</p> <p>5 That is their -- that is what they --</p> <p>6 MR. GILLIAM: No. Our theory is that</p> <p>7 union -- is that union actors are turning in other</p> <p>8 flight attendants, their opponents, union officers,</p> <p>9 and their agents are turning in --</p> <p>10 MR. GREENFIELD: And working with</p> <p>11 Southwest Airlines.</p> <p>12 THE COURT: I understand.</p> <p>13 MR. GILLIAM: That evidence is limited.</p> <p>14 MR. GREENFIELD: There's been three days'</p> <p>15 worth of evidence on it.</p> <p>16 THE COURT: I will look at it over the</p> <p>17 break. I do remember telling at one point,</p> <p>18 Mr. Pryor, he couldn't get into evidence and he</p> <p>19 said, I can't claim collusion? And my thought that</p> <p>20 I didn't say on the record is, it is not a criminal</p> <p>21 case with a conspiracy allegation. But I need to</p> <p>22 think about it more, right?</p> <p>23 MR. McKEEBY: But I would also ask that</p> <p>24 you think about it when you listen to the testimony</p> <p>25 of the next witness and my objection to her</p>
<p style="text-align: right;">Page 1152</p> <p>1 testimony, Ms. Lacore.</p> <p>2 THE COURT: Ms. Lacore?</p> <p>3 MR. McKEEBY: It will just be a preview.</p> <p>4 THE COURT: Understood.</p> <p>5 MR. GREENFIELD: Even something they put</p> <p>6 on with Brian Talburt, they even talked about</p> <p>7 conspiracy with that witness, that they played for</p> <p>8 the jury yesterday.</p> <p>9 THE COURT: So we now have a six-minute</p> <p>10 break. I will see y'all back here in six minutes.</p> <p>11 THE COURT SECURITY OFFICER: All rise.</p> <p>12 (Recess.)</p> <p>13 THE COURT SECURITY OFFICER: All rise.</p> <p>14 THE COURT: Okay. Limine ruling, first</p> <p>15 full paragraph of page 3 of the second amended</p> <p>16 limine order. We have had so much flying around, it</p> <p>17 is hard to remember.</p> <p>18 Okay. So we are talking about the</p> <p>19 arbitration proceedings, but last chance Step 2 are</p> <p>20 still in the same bucket in my mind.</p> <p>21 So the fact of Carter's representation</p> <p>22 and -- by Local 556 and Local 556 being able to</p> <p>23 negotiate a last chance agreement are relevant, at</p> <p>24 least to Carter's duty of fair representation claim.</p> <p>25 So I adopted your argument that you made.</p>	<p style="text-align: right;">Page 1153</p> <p>1 I haven't seen a reason to change that argument. So</p> <p>2 I'm letting you ask that question.</p> <p>3 MR. GREENFIELD: Thank you, your Honor.</p> <p>4 MR. PRYOR: And, your Honor, to make our</p> <p>5 record, when he asks the question, I would like to,</p> <p>6 the first time, fully state in a sidebar all of our</p> <p>7 issues, in addition to what we have said in the</p> <p>8 limine, and ask for a running objection.</p> <p>9 THE COURT: Okay. So I have no problem</p> <p>10 with that, but how about state it now. We're on the</p> <p>11 record. Sidebar is the same as here.</p> <p>12 MR. PRYOR: Well, I'm not an appellate</p> <p>13 lawyer, but I always kind of feel like there has got</p> <p>14 to be a question pending in front of a jury that I</p> <p>15 object to. But if the Court is instructing me that</p> <p>16 you want me to do it this way, I will do it this</p> <p>17 way.</p> <p>18 THE COURT: Well, I mean, if we can do it</p> <p>19 that way. So that is the entire premise of our</p> <p>20 morning session, right? Everything we do in the</p> <p>21 morning session is a relayed-back principle.</p> <p>22 But if you want to wait for a question and</p> <p>23 then come over to sidebar, we can do that.</p> <p>24 MR. PRYOR: I would appreciate that.</p> <p>25 THE COURT: That is fine. Let's bring</p>

<p style="text-align: right;">Page 1154</p> <p>1 them in.</p> <p>2 MR. GREENFIELD: Your Honor, if I may, we</p> <p>3 may be able to shortcut that situation as well. I</p> <p>4 believe Mr. Pryor has agreed -- and as you have</p> <p>5 ruled earlier -- that this also certainly pertains</p> <p>6 to mitigation.</p> <p>7 Counsel and I work on these directs and</p> <p>8 crosses together, and my sageful counterparts have</p> <p>9 entertained me that I have missed part of the boat</p> <p>10 on that. And it absolutely does pertain to</p> <p>11 mitigation as well.</p> <p>12 Our efforts in representing her after her</p> <p>13 termination should be considered by the jury, in</p> <p>14 terms of if a jury was to decide to, in theory,</p> <p>15 penalize us for our actions, we should be -- our</p> <p>16 actions post termination should be considered.</p> <p>17 THE COURT: I understand that. Okay. We</p> <p>18 can bring them in.</p> <p>19 (The jurors entered the courtroom.)</p> <p>20 THE COURT: Mr. Greenfield, you can go</p> <p>21 ahead and approach the podium.</p> <p>22 Thank you. You can be seated.</p> <p>23 And, Mr. Greenfield, you can continue.</p> <p>24 BY MR. GREENFIELD:</p> <p>25 Q. Mr. Schneider?</p>	<p style="text-align: right;">Page 1155</p> <p>1 A. Yes.</p> <p>2 Q. I will instruct you to not abuse our court</p> <p>3 reporter's ears with the microphone.</p> <p>4 A. I'm sorry. She told me to move it away when I</p> <p>5 stand up. And I move it back, and it creaks.</p> <p>6 Q. Okay.</p> <p>7 Before we took our afternoon break, I was</p> <p>8 asking you about how you felt about your own</p> <p>9 decision to terminate Ms. Carter.</p> <p>10 Do you remember those questions?</p> <p>11 A. Yes, I do.</p> <p>12 Q. Okay.</p> <p>13 And do you have any personal knowledge about</p> <p>14 whether Southwest Airlines decided to reduce</p> <p>15 Ms. Carter's termination in any way?</p> <p>16 MR. PRYOR: Your Honor, we object, ask to</p> <p>17 approach.</p> <p>18 THE COURT: You may.</p> <p>19 (Thereupon, the following proceedings were</p> <p>20 had at sidebar:)</p> <p>21 MR. PRYOR: And I realize, while walking</p> <p>22 up here, this question might be a question early.</p> <p>23 He's going into the issue -- but I certainly -- I</p> <p>24 think he's raising the issue of the last chance</p> <p>25 agreement.</p>
<p style="text-align: right;">Page 1156</p> <p>1 Does the Court understand that is what is</p> <p>2 going on? I want to make sure I'm --</p> <p>3 THE COURT: I do.</p> <p>4 MR. PRYOR: Okay. We object to that as</p> <p>5 settlement discussions. It violates Rule 408. It</p> <p>6 is prejudicial; it doesn't relate to after acquired</p> <p>7 evidence; it is not evidence of mitigation. It is</p> <p>8 not relevant; and for all of the other reasons</p> <p>9 raised in our motion in limine response or our</p> <p>10 motion.</p> <p>11 We would ask the Court for a continuing</p> <p>12 objection. And if it is okay with the Court, when</p> <p>13 he actually gets into the meat of it, I might say,</p> <p>14 same objections we raised before so I get it one</p> <p>15 more time on the record, make sure I have got it</p> <p>16 with the right question.</p> <p>17 And then I will be satisfied with a</p> <p>18 continuing objection, if the Court permits it.</p> <p>19 THE COURT: Understood. I will grant you</p> <p>20 your running objection in the interest of time, and</p> <p>21 I have put you on a clock.</p> <p>22 What I will say is I have understood your</p> <p>23 arguments, and I will overrule them for the reasons</p> <p>24 stated on page 3 of the limine order, mostly on</p> <p>25 mitigation and relevance to the DFR.</p>	<p style="text-align: right;">Page 1157</p> <p>1 MR. PRYOR: Okay.</p> <p>2 MR. GREENFIELD: Thank you, your Honor.</p> <p>3 And may I request that all of this not be taxed</p> <p>4 against the Union's time?</p> <p>5 THE COURT: Correct.</p> <p>6 (Thereupon, the sidebar was concluded and</p> <p>7 the following proceedings were held in open</p> <p>8 court:)</p> <p>9 BY MR. GREENFIELD:</p> <p>10 Q. Mr. Schneider?</p> <p>11 THE COURT: Sorry.</p> <p>12 MR. GREENFIELD: Thank you, your Honor.</p> <p>13 BY MR. GREENFIELD:</p> <p>14 Q. Mr. Schneider, just so we are clear and the</p> <p>15 jury is clear, are you aware or have any personal</p> <p>16 knowledge of whether Southwest Airlines offered</p> <p>17 Ms. Carter a reduction from termination to anything</p> <p>18 else?</p> <p>19 MR. PRYOR: Your Honor, we object on the</p> <p>20 running objection we just discussed.</p> <p>21 THE COURT: I will grant you that running</p> <p>22 objection and overrule it. You can answer the</p> <p>23 question.</p> <p>24 THE WITNESS: Yes.</p> <p>25</p>

<p style="text-align: right;">Page 1158</p> <p>1 BY MR. GREENFIELD:</p> <p>2 Q. And what was that?</p> <p>3 A. The possibility of coming back to work for</p> <p>4 Southwest Airlines.</p> <p>5 Q. Was she offered a suspension?</p> <p>6 A. I believe it did include a suspension.</p> <p>7 Q. And based on the timing of efforts, would that</p> <p>8 have been essentially a time served suspension?</p> <p>9 A. Yes, it would have.</p> <p>10 Q. So if Ms. Carter would have accepted that, she</p> <p>11 could have returned to work the very next day. Is</p> <p>12 that --</p> <p>13 MR. PRYOR: Object, leading.</p> <p>14 THE COURT: Yes.</p> <p>15 I'll allow it.</p> <p>16 THE WITNESS: Yes, I did.</p> <p>17 BY MR. GREENFIELD:</p> <p>18 Q. Would she have been able to return to work the</p> <p>19 very next day?</p> <p>20 A. Yes.</p> <p>21 Q. Mr. Schneider, are you an attorney?</p> <p>22 A. No.</p> <p>23 Q. Do you understand the intricacy laws of Title</p> <p>24 VII, Discrimination, Civil Rights Act of 1964?</p> <p>25 A. Basically.</p>	<p style="text-align: right;">Page 1159</p> <p>1 Q. Okay. What are your basic understandings?</p> <p>2 A. That everyone is afforded equal rights,</p> <p>3 especially in employment and different --</p> <p>4 Q. Okay. Would you consider yourself an expert on</p> <p>5 that matter?</p> <p>6 A. No.</p> <p>7 Q. I don't envy you, I think your job is tough.</p> <p>8 Do you think you have ever made any mistakes in</p> <p>9 the workplace?</p> <p>10 A. I'm sure I have.</p> <p>11 Q. In this matter and investigating these claims,</p> <p>12 did you give your best efforts?</p> <p>13 A. Absolutely, yes.</p> <p>14 Q. Okay. I would like to completely focus on this</p> <p>15 decision to terminate.</p> <p>16 Does the Union have any power to control your</p> <p>17 investigation leading up to the termination?</p> <p>18 A. No.</p> <p>19 Q. What would you say if the Union tried to do</p> <p>20 that?</p> <p>21 A. I would let them know that it is my</p> <p>22 responsibility to investigate this, and I don't need</p> <p>23 their assistance to do so.</p> <p>24 Q. Did that happen in the case of Charlene Carter?</p> <p>25 A. No.</p>
<p style="text-align: right;">Page 1160</p> <p>1 Q. Did the Union influence your decision in any</p> <p>2 way to terminate Ms. Carter?</p> <p>3 A. No. Not at all.</p> <p>4 Q. So this was solely the decision of Southwest</p> <p>5 Airlines?</p> <p>6 A. Yes.</p> <p>7 Q. And for clarity's sake, you believe Ms. Stone's</p> <p>8 complaint to be a legitimate one, yes?</p> <p>9 MR. PRYOR: Object, leading.</p> <p>10 THE WITNESS: Yes.</p> <p>11 BY MR. GREENFIELD:</p> <p>12 Q. That you had a duty to investigate?</p> <p>13 THE COURT: Hold on.</p> <p>14 MR. PRYOR: Object to leading.</p> <p>15 THE COURT: Sustained.</p> <p>16 You need to ask a new question.</p> <p>17 BY MR. GREENFIELD:</p> <p>18 Q. That you had a duty to investigate?</p> <p>19 A. Yes.</p> <p>20 MR. GREENFIELD: Give me one moment.</p> <p>21 We pass the witness, your Honor.</p> <p>22 THE COURT: All right. Round two,</p> <p>23 Mr. Pryor.</p> <p>24 MR. PRYOR: Nothing further, your Honor.</p> <p>25 THE COURT: Okay. So you are excused as a</p>	<p style="text-align: right;">Page 1161</p> <p>1 witness for now, but we will need your testimony</p> <p>2 when Southwest calls its case. So I'm going to ask</p> <p>3 you to still not talk to anyone about the case in</p> <p>4 the meantime because you will be back as a witness</p> <p>5 again. We know it.</p> <p>6 With that, you can leave the courtroom.</p> <p>7 You are free to go. Thank you for your testimony.</p> <p>8 MR. McKEEBY: Your Honor, can I have a</p> <p>9 sidebar?</p> <p>10 THE COURT: You may have a sidebar.</p> <p>11 (The witness exited the courtroom.)</p> <p>12 (Thereupon, the following proceedings were</p> <p>13 had at sidebar:)</p> <p>14 MR. McKEEBY: There is no prohibition on</p> <p>15 my talking to them, is there?</p> <p>16 THE COURT: So, yeah, we should talk</p> <p>17 through that. So if I know you are going to call</p> <p>18 him back, but he's left the witness stand, is he</p> <p>19 still under orders to not talk?</p> <p>20 I think I -- well, so I know I have</p> <p>21 authority, even in a criminal case, for someone who</p> <p>22 is a holdover witness on the stand to not talk to</p> <p>23 anyone.</p> <p>24 What I don't know is for what reason is he</p> <p>25 going to be recalled?</p>

<p style="text-align: right;">Page 1162</p> <p>1 MR. McKEEBY: He's just any other witness 2 in my case. I can talk to -- there's no -- I can 3 talk to him. There's no rule preventing -- 4 THE COURT: How about this: Can you have 5 someone give me a case on it? I'm assuming you are 6 right, but before I change my instruction, I would 7 like to know. If you can find me a case, then I 8 will lift the instruction by the end of the day. 9 Does that make sense? 10 MR. PRYOR: I have the same issue, by the 11 way. I'm going to put Ms. Carter on. I don't think 12 we are going to finish her today. 13 MR. McKEEBY: Absolutely, you can talk to 14 her. 15 THE COURT: Well, actually, no, if someone 16 is a holdover on the stand -- 17 MR. PRYOR: So I lose no matter what. 18 THE COURT: Well, and that is what I told 19 Schneider, right? Last night and what I told two 20 different witnesses. 21 The question is, if you hold over because 22 you have left the stand that another witness is on, 23 are you then under a duty to not talk about the 24 case? 25 MR. PRYOR: I guess I'm not seeing the</p>	<p style="text-align: right;">Page 1163</p> <p>1 distinction, but I look forward to seeing the case, 2 see what it says. 3 THE COURT: So all this to say, I won't 4 lift the instruction yet. Send me a case, and I'm 5 happy to lift it by the end day. Assuming I'm 6 wrong, once a witness leaves the stand that you know 7 will return, they're no longer under a duty to not 8 talk about it. 9 MR. GREENFIELD: Your Honor, just for my 10 own clarification, I just don't understand the basis 11 of why -- 12 MR. PRYOR: It is the rule. 13 MR. GREENFIELD: What rule? 14 MR. PRYOR: Invoking the rule. Once you 15 take the stand in a case, you can't talk to anyone 16 about their testimony. 17 THE COURT: Talking to your lawyer, and 18 your lawyer tells you everything that every other 19 thing a witness said. 20 MR. GREENFIELD: Well, he's allowed to 21 cross-examine on it, if they spoke during the break; 22 not the advice that was given, but he can ask them 23 that. And that's persuasive -- I'm just not aware 24 of -- 25 MR. PRYOR: It's a different issue.</p>
<p style="text-align: right;">Page 1164</p> <p>1 THE COURT: The Supreme Court has said 2 that once a witness takes the stand, they are a ward 3 of the court, of me. I can make them sleep at my 4 house, if I want to, to make even a criminal 5 defendant who has the express Fifth Amendment right 6 to counsel. 7 And so your question needs to get informed 8 by the Supreme Court case. But that may not hold 9 true if someone is excused as a witness for now, but 10 we will need him back, right? Another witness is on 11 the stand. 12 So I'm saying, I don't know that case. 13 There may be an exception to the Supreme Court's 14 ward of the court -- 15 MR. GREENFIELD: This is just my -- this 16 is just my decency. I'm just trying -- I just -- I 17 literally -- 18 MR. PRYOR: I never had this. This is 19 interesting. 20 THE COURT: I get that you can 21 cross-examine on it, but is he still a ward of the 22 court when we know he's coming back, but another 23 witness is on the stand? I don't know. 24 So leave my ruling in place for now, but 25 I'm happy to have any authority to talk me out it.</p>	<p style="text-align: right;">Page 1165</p> <p>1 Does that make sense? I'm happy to have 2 any authority -- 3 MR. PRYOR: No, this is fascinating -- no, 4 no, I think she obviously can. 5 THE COURT: I had to research it for a 6 criminal case. 7 MR. PRYOR: But I would like some 8 clarification by the end of the day, but it is 9 interesting, and I'm glad this is on Southwest's 10 time. 11 THE COURT: I'm going to put it on my time 12 because I genuinely don't know. 13 MR. PRYOR: As long as it's not mine, I 14 don't care. 15 THE COURT: I'm professing ignorance. 16 Okay. 17 MR. McKEEBY: So in terms of the process, 18 you want a briefing or just -- 19 THE COURT: Can you just send me a case 20 and a parenthetical over email to Mr. Frye and 21 Ms. Silver? That's great. 22 MR. GREENFIELD: Okay. 23 THE COURT: You don't need to do a brief, 24 but just send me a case and a parenthetical. 25 MR. PRYOR: I can ask Matt to look for a</p>

<p style="text-align: right;">Page 1166</p> <p>1 case.</p> <p>2 THE COURT: Okay. So we are done with</p> <p>3 this witness. Are you calling -- who are you</p> <p>4 calling next?</p> <p>5 MR. PRYOR: Ms. Lacore.</p> <p>6 THE COURT: Okay. Go for it.</p> <p>7 (Thereupon, the sidebar was concluded and</p> <p>8 the following proceedings were held in open</p> <p>9 court:)</p> <p>10 MR. PRYOR: Your Honor, at this time,</p> <p>11 Ms. Carter calls Sonya Lacore.</p> <p>12 THE COURT: Okay. You may do so. We can</p> <p>13 bring her in.</p> <p>14 (The witness entered the courtroom.)</p> <p>15 THE COURT: Hello, Ms. Lacore. You can</p> <p>16 come on up, and the witness box is over here.</p> <p>17 Before you sit down, I'm going to ask you</p> <p>18 to raise your right hand, and Mr. Frye is going to</p> <p>19 swear you in.</p> <p>20 (SONIA LACOUR was duly sworn by the</p> <p>21 Clerk.)</p> <p>22 THE COURT: Okay. You can take a seat</p> <p>23 now.</p> <p>24 And you can come on up, Mr. Pryor.</p> <p>25 And so I will just ask you, Ms. Lacore and</p>	<p style="text-align: right;">Page 1167</p> <p>1 Mr. Pryor, if y'all can keep some separation between</p> <p>2 his questions and your answers, and answers and</p> <p>3 questions, so if there are any objections, I can</p> <p>4 rule on those before you answer.</p> <p>5 THE WITNESS: Okay.</p> <p>6 THE COURT: You can proceed, Mr. Pryor.</p> <p>7 DIRECT EXAMINATION</p> <p>8 BY MR. PRYOR:</p> <p>9 Q. Good afternoon, Ms. Lacore.</p> <p>10 Would you state your name for the record?</p> <p>11 A. Sonya Lacore.</p> <p>12 Q. How are you employed?</p> <p>13 A. I work for Southwest Airlines.</p> <p>14 Q. Can you identify Exhibit 141, previously</p> <p>15 admitted into evidence? It will be on the screen in</p> <p>16 just a minute.</p> <p>17 A. And where is the screen? Oh.</p> <p>18 Q. Can you identify this document as an email at</p> <p>19 the bottom that you received from Brian Talburt?</p> <p>20 A. Yes.</p> <p>21 Q. What was your position with Southwest Airlines</p> <p>22 at the time this email was sent to you?</p> <p>23 A. I believe at that time I was the senior</p> <p>24 director of the strategy for in-flight.</p> <p>25 Q. This was sent to your personal email address?</p>
<p style="text-align: right;">Page 1168</p> <p>1 A. Yes, it appears so.</p> <p>2 Q. Did you understand the Casper referred to in</p> <p>3 this email was an opponent of the Union leadership</p> <p>4 of Audrey Stone?</p> <p>5 MR. McKEEBY: Your Honor, this is, I</p> <p>6 think, in evidence, but with the limiting</p> <p>7 instruction, which I would ask the Court repeat.</p> <p>8 THE COURT: Yes. Okay. So I let in this</p> <p>9 exhibit with the limiting instruction that is for</p> <p>10 use in the claims against the union, not in the</p> <p>11 claims against Southwest.</p> <p>12 Okay. So you can reask that question so</p> <p>13 she remembers what it is, Mr. Pryor.</p> <p>14 BY MR. PRYOR:</p> <p>15 Q. I will restate it.</p> <p>16 Mr. Casper was someone that Mr. Talburt viewed</p> <p>17 as an opponent of the Union he supported?</p> <p>18 A. I really don't recall that. I'm guessing that</p> <p>19 that is what he was thinking, but I'm not sure.</p> <p>20 This was a long time ago.</p> <p>21 Q. We went over this in your deposition. You</p> <p>22 recalled the context of this. He was complaining</p> <p>23 about another union member, right?</p> <p>24 A. Yes.</p> <p>25 Q. And you also understand he was warning you</p>	<p style="text-align: right;">Page 1169</p> <p>1 about Ms. Corliss, true?</p> <p>2 A. I understand that is what he's saying in this</p> <p>3 email.</p> <p>4 Q. And you understood Ms. Corliss to be an</p> <p>5 African-American potential leader of the Union,</p> <p>6 true? Based on what he's telling you?</p> <p>7 A. I know that is what he was telling me. I</p> <p>8 didn't understand that she would be a potential</p> <p>9 union leader at that time.</p> <p>10 Q. You did not respond in writing to this email,</p> <p>11 true?</p> <p>12 A. I don't remember if I did. I don't -- I don't</p> <p>13 know.</p> <p>14 Q. You have not gone back and looked?</p> <p>15 A. No, sir. I don't use this email address at</p> <p>16 all.</p> <p>17 Q. You did not bring any charges against</p> <p>18 Mr. Talburt or otherwise complain about him to the</p> <p>19 company?</p> <p>20 A. Not in this instance, no, sir.</p> <p>21 Q. And when you received a copy of Audrey Stone's</p> <p>22 complaint against Ms. Carter, did you inform anyone</p> <p>23 of the communications that you had received about</p> <p>24 using social media policy to target union opponents?</p> <p>25 A. I don't recall.</p>

<p style="text-align: right;">Page 1170</p> <p>1 Q. Is that the kind of thing you would forget?</p> <p>2 A. I have a lot of emails that come my way, so it</p> <p>3 is possible I would forget.</p> <p>4 MR. PRYOR: Your Honor, we move for the</p> <p>5 admission of Exhibit 148.</p> <p>6 MR. HILL: 138, sorry.</p> <p>7 MR. PRYOR: I'm sorry, 138.</p> <p>8 THE COURT: 138. All right. I will ask</p> <p>9 if there are any objections on 138.</p> <p>10 MR. McKEEBY: No objection.</p> <p>11 THE COURT: All right. Any from the</p> <p>12 Union?</p> <p>13 MR. GREENFIELD: On 138?</p> <p>14 THE COURT: 138.</p> <p>15 MR. GREENFIELD: No, your Honor.</p> <p>16 THE COURT: All right. 138 is in, we will</p> <p>17 publish.</p> <p>18 (The referred-to document was admitted in</p> <p>19 Evidence as Plaintiff's Exhibit 138.)</p> <p>20 MR. PRYOR: Pass the witness.</p> <p>21 THE COURT: Southwest.</p> <p>22 MR. McKEEBY: Can you pull up 141?</p> <p>23 CROSS-EXAMINATION</p> <p>24 BY MR. McKEEBY:</p> <p>25 Q. Ms. Lacore, did you take any action in</p>	<p style="text-align: right;">Page 1171</p> <p>1 connection with the email sent to you by</p> <p>2 Mr. Talburt?</p> <p>3 MR. PRYOR: Object, asked and answered.</p> <p>4 THE COURT: He can ask it.</p> <p>5 THE WITNESS: I don't recall.</p> <p>6 BY MR. McKEEBY:</p> <p>7 Q. Who is Mr. Talburt?</p> <p>8 A. A Phoenix flight attendant.</p> <p>9 Q. And is he someone with whom you communicated on</p> <p>10 occasion?</p> <p>11 A. Yes, sir, on occasion. He would -- actually,</p> <p>12 frequently, write to many of us at Southwest.</p> <p>13 Q. And can you generally describe the topics that</p> <p>14 he would communicate with you about?</p> <p>15 A. Brian, he was passionate about a lot of topics.</p> <p>16 So it could be anything from how upset he was about</p> <p>17 crew scheduling, other people, how he didn't think</p> <p>18 we were doing a good job as leaders.</p> <p>19 So it was a variety of topics. And again,</p> <p>20 frequent.</p> <p>21 Q. Would he ever contact you via text message?</p> <p>22 A. Yes, he did.</p> <p>23 Q. About the same type of topics?</p> <p>24 A. Yes, sir.</p> <p>25 Q. Did you ever take any action to prevent him</p>
<p style="text-align: right;">Page 1172</p> <p>1 from contacting you via text message?</p> <p>2 A. I did.</p> <p>3 It became excessive. And I -- and overly</p> <p>4 passionate. And so I let him know that he could</p> <p>5 communicate with me via company email in a</p> <p>6 professional manner, and I blocked him from my text.</p> <p>7 Q. You blocked him from your -- I'm sorry, I</p> <p>8 didn't hear --</p> <p>9 A. From my text. From my phone.</p> <p>10 Q. Ms. Lacore, did you have any involvement in the</p> <p>11 decision to terminate Ms. Carter's employment?</p> <p>12 A. No, I did not.</p> <p>13 Q. Were you consulted in connection with that</p> <p>14 decision?</p> <p>15 A. I was told afterwards with the letter.</p> <p>16 Q. You were copied on the letter?</p> <p>17 A. Copied on -- yes, sir.</p> <p>18 Q. And when you say "the letter," you mean the</p> <p>19 termination letter?</p> <p>20 A. That's correct.</p> <p>21 Q. Did you -- were you engaged in the</p> <p>22 investigation of Ms. Stone's complaint about</p> <p>23 Ms. Carter?</p> <p>24 A. No, sir, I was not.</p> <p>25 MR. McKEEBY: No further questions.</p>	<p style="text-align: right;">Page 1173</p> <p>1 THE COURT: Mr. Greenfield.</p> <p>2 ^CROSS-EXAMINATION</p> <p>3 BY MR. GREENFIELD:</p> <p>4 Q. Ms. Lacore, hi. I'm Adam Greenfield, and I</p> <p>5 represent the Union.</p> <p>6 Do you understand who I am?</p> <p>7 A. I do.</p> <p>8 Q. You said you played no role in the decision to</p> <p>9 terminate Ms. Carter, is that correct?</p> <p>10 A. That is correct.</p> <p>11 Q. So the Union did not exert any pressure on you</p> <p>12 to terminate Ms. Carter, did they?</p> <p>13 A. No, sir.</p> <p>14 MR. PRYOR: Object, leading.</p> <p>15 THE COURT: I'll allow it.</p> <p>16 MR. GREENFIELD: No more questions. Pass</p> <p>17 the witness.</p> <p>18 THE COURT: Round two, Mr. Pryor.</p> <p>19 REDIRECT EXAMINATION</p> <p>20 BY MR. PRYOR:</p> <p>21 Q. Did you refer to Mr. Talburt as your pen pal?</p> <p>22 A. I guess at that time he wrote.</p> <p>23 We use that term loosely at Southwest if people</p> <p>24 write us a lot.</p> <p>25 Q. Is that a yes?</p>

<p style="text-align: right;">Page 1174</p> <p>1 A. That would be yes. He was a frequent pen pal 2 at the time. 3 Q. Did you block him after you received the email 4 communication talking about working with Southwest 5 to utilize the social media policy to get rid of 6 Mr. Casper and Ms. Corliss? 7 A. I blocked him after he wrote a really rude, 8 vile text to me, and it was not related to that. 9 Q. So how long after you received the one where 10 he's talking about getting rid of these people did 11 you block him? 12 A. I don't recall. 13 Q. It was years, wasn't it? 14 A. I don't recall. 15 Q. Okay. And Audrey Stone spoke to you about her 16 complaint against Ms. Carter, correct? 17 A. She mentioned it in passing. 18 Q. Okay. 19 MR. PRYOR: Thank you. 20 THE COURT: Round two, Mr. McKeeby. 21 MR. McKEEBY: No round two. 22 THE COURT: Round two? 23 MR. GREENFIELD: No, your Honor. 24 THE COURT: Okay. That means no round 25 three.</p>	<p style="text-align: right;">Page 1175</p> <p>1 Okay. So that means you are excused as a 2 witness, so thank you for your testimony. Thank you 3 for coming in. You can leave the courtroom. 4 THE WITNESS: Thank you. 5 (The witness exited the courtroom.) 6 THE COURT: Okay. Next witness, 7 Mr. Pryor. 8 MR. PRYOR: Your Honor, at this time we 9 call Charlene Carter. 10 THE COURT: Okay. Ms. Carter, you can 11 take the stand. And we will have you raise your 12 right hand and take the oath while you are en route. 13 You know the routine. 14 (CHARLENE CARTER was duly sworn by the 15 Clerk.) 16 THE COURT: Okay. You can take a seat and 17 remember my request for space between questions and 18 answers. You can proceed, Mr. Pryor. 19 DIRECT EXAMINATION 20 BY MR. PRYOR: 21 Q. Good afternoon. 22 A. Hello. Sorry. 23 Q. And would you state your name for the jury. 24 A. Yes. My name is Charlene Carter. 25 Q. Would you tell the jury a little bit about</p>
<p style="text-align: right;">Page 1176</p> <p>1 yourself today, married, kids, whatever? 2 A. Yeah. Well, I will start back, I'm from -- 3 originally from California. I was born there, and 4 moved to Texas when I was 12. 5 Q. Okay. I'm going to stop you, because that is 6 not -- I meant today. 7 Are you married -- are you married with kids? 8 Don't go back to your beginning life. 9 A. Oh, I'm sorry. Yes, I'm married, and I have 10 two beautiful children. 11 Q. Okay. And a grandchild? 12 A. I do. 13 Q. Okay. All right. 14 So I am going to ask you about your background, 15 and specifically as it relates to your religious 16 beliefs because those are at issue here, do you 17 understand? 18 A. Yes. 19 Q. Okay. 20 And let's go back now, then, to -- boy -- I'm 21 going to ask when you were born because it -- I want 22 to be able to tie an age to it, if you are okay with 23 that? 24 A. I'm fine with that. 25 Q. Okay. So where were you born, when you were</p>	<p style="text-align: right;">Page 1177</p> <p>1 born? 2 A. I was born in Burbank, California, in 1965. 3 Q. Okay. And tell us about your parents. 4 A. My parents were both born there in California. 5 My dad was kind of abusive. My mom, she held 6 everything together. She worked real hard. She 7 worked from the time I was born. My dad kind of was 8 a free -- I guess what I would say, he didn't really 9 like to work a whole lot. And my mom kind of kept 10 things together. 11 Q. And in terms of your family's faith or beliefs, 12 if they had any as you were growing up in 13 California, what was that? 14 A. Well, we really didn't have faith in the house. 15 My grandmother would take us to church when we were 16 little. She was Catholic. And we would go to, you 17 know, to church like Christmas, Easter, Mother's 18 Day, that kind of thing. 19 But we never -- we never really prayed, or we 20 never had, you know, much religion in our household. 21 Not in my household growing up with my dad in my 22 home. We never had a Bible in the house. 23 Q. Okay. And at some point, did you move from 24 California? 25 A. Yes. My dad finally decided that he was going</p>

<p style="text-align: right;">Page 1178</p> <p>1 to start pursuing a career. And when he did, he got</p> <p>2 transferred to Texas, in the Dallas area.</p> <p>3 Q. And how old were you then?</p> <p>4 A. I was 12.</p> <p>5 Q. And tell us about when you moved to Texas, when</p> <p>6 you were 12. Did you go to school in Texas? Did</p> <p>7 you have --</p> <p>8 A. I did.</p> <p>9 Q. -- how did that affect your faith?</p> <p>10 A. We moved to the Corinth area, Lake Dallas area.</p> <p>11 And I grew up in Lake Dallas High School. I was on</p> <p>12 drill team.</p> <p>13 Q. We found that out from --</p> <p>14 A. Yeah.</p> <p>15 Q. I don't know if I can mention it, sorry.</p> <p>16 You were on the drill team, you were going to</p> <p>17 high school?</p> <p>18 A. Uh-huh.</p> <p>19 Q. What was your faith at that time?</p> <p>20 A. It was still kind of the same. You know, we</p> <p>21 went to church every now and then, but it was always</p> <p>22 my mom and my sister and I. It was never my dad.</p> <p>23 And again, that was usually Christmastime,</p> <p>24 Easter, Mother's Day, that kind of stuff. It</p> <p>25 wasn't -- it wasn't a whole lot -- like I said,</p>	<p style="text-align: right;">Page 1179</p> <p>1 there wasn't a whole lot of faith in my house, you</p> <p>2 know, as in there just wasn't.</p> <p>3 Q. And did you date?</p> <p>4 A. I did. My last year of my high school, I met a</p> <p>5 gentleman -- well, I shouldn't call him a</p> <p>6 gentleman -- a young boy. He had just graduated. I</p> <p>7 knew of him, I didn't know him, you know,</p> <p>8 specifically. But we ended up dating, and actually</p> <p>9 he became my first husband.</p> <p>10 Q. So we can put a name with that, tell me, what</p> <p>11 is his first name?</p> <p>12 A. His name is Dana.</p> <p>13 Q. Dana?</p> <p>14 A. Dana, Uh-huh.</p> <p>15 Q. You dated him in high school. And then what</p> <p>16 did you do after you graduated high school?</p> <p>17 A. Well, I graduated early. I wanted out of high</p> <p>18 school, to be quite honest with you. I was ready to</p> <p>19 kind of get on with my life.</p> <p>20 Q. How do you graduate early?</p> <p>21 A. I had enough credits and I went to summer</p> <p>22 school.</p> <p>23 Q. Okay. So you graduated in?</p> <p>24 A. In January of '83.</p> <p>25 Q. Okay. And what did you do in January of '83?</p>
<p style="text-align: right;">Page 1180</p> <p>1 A. In January of '83 -- well, my parents moved</p> <p>2 away, basically, at that same point. So they moved</p> <p>3 to Colorado. My dad got a job in Colorado. And</p> <p>4 they left between, I would say, January and maybe</p> <p>5 March is when they, you know, continued or finished</p> <p>6 their move.</p> <p>7 And I ended up -- not homeless, but I -- at</p> <p>8 that time I had two jobs. And I ended up going into</p> <p>9 and living with my boyfriend's parents.</p> <p>10 Q. Okay.</p> <p>11 A. And I was going to school at the time. I had</p> <p>12 just started college. I was going to TWU, Texas</p> <p>13 Woman's University.</p> <p>14 Q. So you were holding down two jobs and that is</p> <p>15 how you were able to go to TWU?</p> <p>16 A. Yes. Well, and my grandmother, she had paid</p> <p>17 for the first semester of school. Yes.</p> <p>18 Q. What about your parents?</p> <p>19 A. No. My parents didn't pay for school. They</p> <p>20 thought that was my responsibility.</p> <p>21 Q. And then what happens -- by the way, you said</p> <p>22 you were living with your boyfriend's parents.</p> <p>23 A. Yes.</p> <p>24 Q. Did they put a time period on you?</p> <p>25 A. They did. It was six months. And I found an</p>	<p style="text-align: right;">Page 1181</p> <p>1 apartment in Denton. I was living in a little</p> <p>2 efficiency.</p> <p>3 I was working at a restaurant, and then I was</p> <p>4 at a call center in the evening. And it kind of was</p> <p>5 between the time that I would go to class. Because</p> <p>6 I had a full-time schedule at Texas Woman's</p> <p>7 University at that time. I wanted to become an</p> <p>8 OB-GYN.</p> <p>9 Q. And were you living with anyone?</p> <p>10 A. No, not at that time.</p> <p>11 Q. Okay.</p> <p>12 A. Not at that time.</p> <p>13 Q. So you are living in an efficiency, holding</p> <p>14 down two jobs, and trying to go to school full time?</p> <p>15 A. Yes.</p> <p>16 Q. All right. So how does that work out? What</p> <p>17 happens?</p> <p>18 A. It doesn't work out well, because just, you</p> <p>19 know, trying to keep your grades up and, you know,</p> <p>20 going back between two jobs, and then I was dating</p> <p>21 my -- like I said, my boyfriend at that time, and we</p> <p>22 were pretty serious.</p> <p>23 We ended up moving in together.</p> <p>24 Q. When was that? Of this timeline, you started</p> <p>25 school --</p>

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1 A. Yeah, that would have been probably -- it would
 2 have been a year. Because I was in his apartment --
 3 or, sorry -- his parents' home for six months, and
 4 then I lived in my apartment for about six months,
 5 and then I moved in with him.
 6 Q. So 1984 --
 7 A. Yes.
 8 Q. -- approximately.
 9 And did your parents have a reaction to that?
 10 A. My dad did.
 11 Q. What?
 12 A. He had always told me -- well, first of all, he
 13 always told me if I dated a boy and I came home
 14 pregnant, to pack my bags and move out.
 15 So when he found out that Dana and I were
 16 living together -- because I didn't, you know, come
 17 right out and tell him that -- when he found out, he
 18 didn't really want a whole lot to do with me and he
 19 called me a whore.
 20 Q. And what did that do in terms of you going to
 21 school -- not that, the fact that you are now living
 22 with your boyfriend, what happens with going to
 23 school?
 24 A. Well, going to school kind of had dropped back.
 25 And I -- at one point, I just finally quit, because

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1 Q. And so did you contact your parents for
 2 assistance?
 3 A. No, I did not.
 4 Q. Why not?
 5 A. I didn't even tell them I was pregnant because
 6 I knew that that wasn't going to work. I mean, they
 7 never sent me any money anyway. I mean, they
 8 weren't paying for anything. When I moved out, I
 9 moved out.
 10 Q. Who did you reach out to?
 11 A. Well, and I didn't even tell Dana for a couple
 12 of days. I just -- I couldn't bring myself to doing
 13 it, because he was in a fraternity, he was going to
 14 school. And I knew that that was one -- you know,
 15 something that he did not want -- I mean, he didn't
 16 want to get married yet.
 17 When I eventually told him, he said that we
 18 can't tell -- you know, obviously, I can't tell my
 19 parents, and he said, he wasn't going to tell his
 20 parents.
 21 So and he wasn't going to quit school. And, of
 22 course, I didn't want him to quit school. That
 23 wasn't, you know, on the radar for me. And there
 24 wasn't really anybody to go to for me, so we talked
 25 about it. And we argued about it. And finally, I

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1 I was trying to help him go to school at the same
 2 time, and I was working the two jobs. And
 3 eventually, I got pregnant.
 4 Q. Tell me about finding out you were pregnant.
 5 By the way, were you going to school at the
 6 time or was that when you --
 7 A. No. This was right after I had dropped out. I
 8 had dropped out. I had gone to school almost two
 9 years, and I knew I wasn't going to be able to
 10 continue to do what I was doing.
 11 Q. Did you try not to get pregnant?
 12 A. Yeah. I had been on several different birth
 13 control pills, and the birth control pills just made
 14 me sick. To this day, I still can't take them.
 15 Q. And so tell me about finding out you were
 16 pregnant.
 17 A. Ah, well, I -- I didn't really want to believe
 18 that is what it was, but I knew since I had missed.
 19 And, you know, went to my doctor, because I started
 20 feeling bad, and I was tired, and the whole
 21 nine yards. And a friend of mine said, you probably
 22 need to go to the doctor.
 23 So I went to the doctor and he confirmed it, I
 24 was pregnant, and I was about nine-and-a-half to 10
 25 weeks pregnant at that time.

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1 said I would get an abortion.
 2 Q. And what did you do to make that happen?
 3 A. Back then, you got into the Yellow Pages and
 4 you searched out under abortion, basically, or
 5 healthcare, I can't even remember. I don't remember
 6 that.
 7 But I found Planned Parenthood and called them
 8 up.
 9 Q. And what happened next?
 10 A. Ah, within about, I would say, three days,
 11 because I was still torn --
 12 Q. What were you torn about?
 13 A. Going and getting an abortion.
 14 Q. What were your religious views at that time, if
 15 they played into this?
 16 A. At that time I had somewhat -- you know, I
 17 believed in God, I knew God was there, I just -- I
 18 struggled. I struggled. I was afraid that if I did
 19 this, he would hate me and that I would never be
 20 forgiven. But I was afraid not to go and do it
 21 because -- I just didn't know what to do. I was
 22 afraid. And there wasn't the resources back then
 23 that there are now. There were just not.
 24 Q. And were you looking for information from
 25 Planned Parenthood in that regard?

<p style="text-align: right;">Page 1186</p> <p>1 A. Yes.</p> <p>2 Q. What were you looking for?</p> <p>3 A. To get an abortion.</p> <p>4 Q. Were you looking for answers to questions?</p> <p>5 A. Yes, I was.</p> <p>6 Q. What questions did you have?</p> <p>7 A. Well, when we walked into Planned Parenthood,</p> <p>8 they separated my boyfriend and I. And he was in</p> <p>9 the -- a waiting room. And the lady in the front</p> <p>10 took me back and I sat in an office with one of the</p> <p>11 nurses.</p> <p>12 And -- because I wanted to know, first of all,</p> <p>13 how far along I really was, because my doctor said I</p> <p>14 was about 9 to 10 weeks. And, you know, they had --</p> <p>15 eventually did an examination in there too, and they</p> <p>16 said that was about right.</p> <p>17 But before that, I wanted to find out -- again,</p> <p>18 there wasn't a whole lot back then that you could</p> <p>19 pull on Internet. We didn't have Internet. This</p> <p>20 was like 1985, '84, '85.</p> <p>21 And I asked them, you know, how -- at a</p> <p>22 10 week, what does it look like? And she said,</p> <p>23 Well, really and truly, there -- you know, there is</p> <p>24 not much there, it is -- you know, it is just this</p> <p>25 little tiny zygote, is what they called it, and, you</p>	<p style="text-align: right;">Page 1187</p> <p>1 know, there's -- it is not formed yet.</p> <p>2 And I asked her, I said, okay, I mean, I know</p> <p>3 that there is something going on, but she assured me</p> <p>4 that the baby couldn't feel any pain. And that kind</p> <p>5 of settled my -- my apprehension, I guess, at that</p> <p>6 time.</p> <p>7 Q. Did you get the answers you really wanted to</p> <p>8 hear at that time?</p> <p>9 A. Not really. Not really. But I didn't know</p> <p>10 what to do.</p> <p>11 Q. Did you find out that those answers turned out</p> <p>12 not to be accurate?</p> <p>13 A. Later on, yeah, I did.</p> <p>14 Q. But at the time, did you then make the decision</p> <p>15 to go forward with the abortion?</p> <p>16 A. I did.</p> <p>17 Q. Did they tell you about whether or not there</p> <p>18 would be complications?</p> <p>19 A. No, not really, because we didn't discuss that.</p> <p>20 I want people to know what goes on in Planned</p> <p>21 Parenthood. Because Planned Parenthood does not</p> <p>22 tell you the truth.</p> <p>23 Q. Okay. Let me just interrupt you -- and I</p> <p>24 apologize for that, but I want to make sure that we</p> <p>25 understand, this is your story from your experience.</p>
<p style="text-align: right;">Page 1188</p> <p>1 A. Yes.</p> <p>2 Q. Okay. Go ahead. Tell us.</p> <p>3 A. So I decided to have this abortion. I went,</p> <p>4 the lady took me back to the examining room. Put me</p> <p>5 on the table. Gave me a small sedative.</p> <p>6 And she said I would start feeling a little bit</p> <p>7 woozy, you know, just I would still be awake, but it</p> <p>8 would kind of keep me calm.</p> <p>9 And then the doctor came in, and he said</p> <p>10 that -- he kind of explained the situation, what was</p> <p>11 going to be going on, and he examined me and he</p> <p>12 said, yeah, you are about 10 weeks along. He could</p> <p>13 tell. He could tell.</p> <p>14 And then he told me how the procedure would go.</p> <p>15 And all I remember was to the left of me was a</p> <p>16 suctioning container, it was this round machine-type</p> <p>17 thing.</p> <p>18 And he said, you won't feel a whole lot because</p> <p>19 they have numbed me down there and basically kind of</p> <p>20 dilated me and then started up the suctioning</p> <p>21 machine.</p> <p>22 Q. Did you feel it?</p> <p>23 A. Yeah.</p> <p>24 Q. Did you feel the baby leave your body?</p> <p>25 A. I didn't -- it was a lot of pulling and a lot</p>	<p style="text-align: right;">Page 1189</p> <p>1 of -- it was quite a bit of pain. But I -- it was</p> <p>2 kind of like -- I would say if you have really bad</p> <p>3 monthly cycles, it would be like cramping.</p> <p>4 Q. And then what?</p> <p>5 A. Well, I could hear the suctioning machine, and</p> <p>6 from there it was just -- it took place.</p> <p>7 And then after that, he had to take something</p> <p>8 and clean the rest out and make sure he got all of</p> <p>9 the baby -- the parts out.</p> <p>10 Q. He had to do what?</p> <p>11 A. He had to make sure he had everything out.</p> <p>12 Q. Did he?</p> <p>13 A. He said he did.</p> <p>14 Q. Did you see anything?</p> <p>15 A. No.</p> <p>16 Q. Did you try to look or did you close your eyes?</p> <p>17 A. At one point I tried to look, but after what I</p> <p>18 saw in the suctioning container, I just couldn't do</p> <p>19 it anymore. I knew what I had done at that point.</p> <p>20 Q. What did you see?</p> <p>21 A. A lot of blood and little parts.</p> <p>22 Q. Parts of what?</p> <p>23 A. Of a baby.</p> <p>24 Q. How did you react to that?</p> <p>25 A. I just started crying. I just started crying.</p>

<p style="text-align: right;">Page 1190</p> <p>1 And I knew at that point I had made the worst 2 decision of my life. 3 Q. What happened next? 4 A. They take you back to a room and let you kind 5 of wear down the anesthesia and they kind of make 6 sure that you are, you know, stable enough to go 7 home. I was back there probably, what, 30 minutes, 8 maybe 45 minutes, for the local to kind of wear off. 9 And I started throwing up, bleeding pretty heavily, 10 crying a lot. 11 And then the nurse came back and said, You are 12 ready to go and I'm going to take you up to your 13 boyfriend. And then I went home. 14 Q. After that, were you able to put it behind you? 15 A. No. 16 Q. How so? 17 A. Because I knew I had just made the worst 18 decision of my life, and it was -- I had just taken 19 the life of my little baby. 20 And I went home, and got into an argument with 21 my boyfriend. And a really good friend came over 22 and stayed with me the rest of the night and he went 23 and stayed with his parents. And from there -- 24 Q. Was the argument about the abortion? 25 A. Yes.</p>	<p style="text-align: right;">Page 1191</p> <p>1 Q. What was the argument? 2 A. It was over. I was angry. I was mad. I was 3 sad. I was disgusted with him, I was disgusted with 4 myself. And I -- I didn't want to see him. I 5 didn't want to be around him anymore. I just 6 didn't -- I couldn't. I didn't want to be around 7 myself at that point. 8 Q. When you left Planned Parenthood, did they tell 9 you whether or not you -- there were any problems 10 with the procedure? 11 A. No. They did not, no. 12 Q. What happens next? You make up with your 13 boyfriend? I'm not trying to lead you. 14 A. No. No. What happened next was, for the 15 next -- well, until he and I got married, I was 16 basically in a very depressive state, angry, didn't 17 like him, didn't like myself. I searched out some 18 counseling. I started searching out churches. 19 Q. How did you feel about your relationship with 20 God after the abortion? 21 A. I thought he basically hated me. And I could 22 see why. I could see why. 23 Q. So what did you do? You told us you got 24 married. Why did you get married? 25 A. So fast forward --</p>
<p style="text-align: right;">Page 1192</p> <p>1 Q. Let me interrupt myself. 2 A. That's okay. 3 Q. It sounded like you were mad at your boyfriend, 4 you didn't think he supported you. 5 Why did you marry him? 6 A. We had dated for five years. And we had lived 7 together. And he was my first and only. And how I 8 was raised is, if you sleep with somebody -- and, 9 you know, we had been together five years. I mean, 10 it was basically the next step. 11 And so we were supposed -- we were going to get 12 married. 13 Q. Were you able to put your depression and 14 thoughts about the abortion away on your wedding 15 day? 16 A. No. I knew when I was walking down that aisle 17 that it probably wouldn't last. I was still angry. 18 I was still upset. I was still sad. 19 I was still -- but I, honestly, I just figured 20 since we had been together for five years and we had 21 gone through this, maybe we would, you know, come 22 back to a relationship. I really honestly don't 23 know what I was thinking back then. I made some 24 stupid decisions. 25 Q. Welcome to life.</p>	<p style="text-align: right;">Page 1193</p> <p>1 So was your relationship with parents such at 2 that point that you could tell them about the 3 abortion? 4 A. No. I didn't tell me parents until a lot 5 later. And that was after my son was born. 6 Q. Okay. Well, let me -- after you got married, 7 did that help you deal with the depression you were 8 suffering from? 9 A. No. It actually got worse. 10 And so we got married. And then we bought a 11 house. And he was still going to school, still in 12 his fraternity. And I started working a full-time 13 job to help us, you know, get by and so forth and 14 him go to school. 15 About two years into our marriage, I got 16 pregnant again. And that that pregnancy resulted in 17 an ectopic pregnancy. 18 Q. Tell us what that is. 19 A. It is when the baby is forming inside the 20 fallopian tube. 21 And then I went and saw my OB-GYN -- well, go 22 back. The way that I found this out was that I 23 started hemorrhaging. 24 And so they immediately -- when I got to the 25 hospital, they immediately put me in a room. And</p>

<p style="text-align: right;">Page 1194</p> <p>1 the doctor came in, and that is when they found out 2 that the baby was in the tube. 3 And later finding out, after I lost that one -- 4 because they had to do an emergency surgery to take 5 the baby out of the tube -- he told me that I might 6 lose that one side. That devastated me. I thought, 7 you know, that this was my punishment for having an 8 abortion before that, and that I probably would 9 never have kids. 10 Q. Did the doctor tell you that it had anything to 11 do with your abortion? 12 A. Yes, he did. 13 Q. What? 14 A. He said there was scar tissue down between the 15 fallopian tube going into the uterus. 16 Q. From the abortion? 17 A. Yes. 18 Q. And so now you have lost two children because 19 of your decision to have an abortion in your mind. 20 Are they children to you now? 21 A. Oh, yeah. Yeah. My babies, yes. 22 Q. So how are you dealing with this now? 23 And by the way, tell me how you feel about your 24 relationship with God and your husband and how it 25 affects all of that.</p>	<p style="text-align: right;">Page 1195</p> <p>1 A. Well, the husband part, it really -- it started 2 to deteriorate some again. 3 I, for myself, I had to get some help, because 4 I was in a major depression, especially after that 5 one. 6 So like I said, I was -- before that, I was 7 actually seeking churches, I was seeking some 8 counseling. I had found a church in Denton called 9 Denton Bible. I started going there. That started 10 to kind of help because I started meeting some 11 people. 12 But you know, I still wasn't back until -- what 13 helped me was when I finally got pregnant with my 14 son. 15 Q. Tell us about that. 16 A. At that time, I was flying for American 17 Airlines. I was a flight attendant for them. I had 18 gone to work for them and worked in corporate. 19 Q. And was that okay with your husband? 20 A. No. Not -- not the flying part. 21 I had worked in corporate for about a year and 22 a half, and then I decided I wanted to go to 23 in-flight. And so I did. 24 And I was based in New York. And no, my 25 husband did not like that at all.</p>
<p style="text-align: right;">Page 1196</p> <p>1 My husband was pretty controlling. He wanted 2 to know where I was all of the time. 3 I basically married my dad. 4 Q. Okay. Did you have to quit that job? 5 A. Yeah, I did. And it was due to the fact that I 6 got pregnant with my son. 7 Q. Okay. And how did that pregnancy go? 8 A. That pregnancy went great. 9 Q. Good. Your son was born. 10 And did that relieve your depression from the 11 abortions -- or the abortion and the second lost 12 child? 13 A. It told me that what I needed to do was -- the 14 depression, yes. It started to go away. But I knew 15 I needed something more. I knew that he had 16 forgiven me, because I had asked for that, for God 17 to forgive me. But I hadn't forgiven myself. 18 So through that time period when my son was 19 little, I still carried that guilt around. And I 20 got closer to God through that time period. And I 21 actually raised my son at church. 22 Q. Did you have an experience at church where you 23 were able to forgive yourself? 24 A. I did. And that is fast forward. 25 Q. I don't want to fast forward. This is your day</p>	<p style="text-align: right;">Page 1197</p> <p>1 in court, ma'am. We set aside some time, so I'm not 2 trying to rush you. 3 A. No, I loved being a mom. Loved being a mom. 4 My husband and I, we still had issues, and it had a 5 lot to do with the controlling part and the 6 abortion. I was still angry at him. I didn't let 7 go of the anger for a long time. 8 My husband -- my first husband and I, we got 9 divorced when my son was two. 10 Q. What happens next? 11 A. What happens next is that I actually decided I 12 wanted to fly again. And so I had already applied 13 twice before at Southwest Airlines, and did not get 14 the position. 15 So I decided to try for a third time. And the 16 third time was the charm. And I got on at Southwest 17 in 1996. 18 Q. Okay. And I do want to talk about your 19 Southwest Airlines union activities, and to the 20 extent they overlap here, if you want to talk about 21 that, that is fine. 22 I'm really tracking your -- where you -- your 23 religious faith develops that affects this lawsuit. 24 A. Okay. So I started going to Denton Bible, like 25 I said. And then I found another church, and it was</p>

<p style="text-align: right;">Page 1198</p> <p>1 called Fellowship, Fellowship Church in Grapevine. 2 And at the time, it was not very big, so I 3 started taking my son there, and took him to the 4 little kids church and went to the services on 5 Sunday. 6 I found out that there was a women's group, and 7 I started feeling like I needed to get more involved 8 in -- in the church and meeting people and so forth. 9 And at this point, I was also dating someone 10 new. And I wanted -- I wanted that relationship to 11 be more so in a more faith-based relationship. 12 So we started going to church together. And 13 taking my son. And then there was a women's group. 14 The first time that I really stepped out, the whole 15 auditorium was full of women. And Lisa Young, who 16 is Ed Young's wife, she was the one who put this on. 17 And the first speaker was a beautiful young 18 lady, and it was -- the whole subject was on hot 19 topics, what most churches don't discuss. 20 And they felt that this was something that the 21 women's group could do and do a Bible study on. 22 So the first hot topic was on abortion. 23 Q. What happened? 24 A. Well, I couldn't believe it. Because I had 25 been searching -- for me, I couldn't forgive myself.</p>	<p style="text-align: right;">Page 1199</p> <p>1 And I knew that in order to follow God and really 2 believe in what he says, you don't just forgive 3 others, you also have to forgive yourself for the 4 things that you have done. 5 And that was what all this particular women's 6 group was about. It was forgiving yourself for the 7 things that you have done in your past that you were 8 ashamed of, and the first one was on abortion. 9 And it floored me on -- when they said, um, if 10 this -- if -- we want all women to stand up if it 11 has affected you, your family, your friends, you 12 personally, or you have just known somebody at work 13 that has had this happen, that they had had an 14 abortion. 15 And the amount of women that stood up in that 16 auditorium, I was like, I'm finally not alone. 17 Q. Did you stand up? 18 A. I did. 19 Q. And what happened next? 20 A. Well, that was -- most of us were crying, 21 because most of us had not ever -- well, a lot of us 22 hadn't, I hadn't, I hadn't really told the story a 23 whole lot. There was only a few of my friends that 24 knew, and then obviously my ex. I hadn't even told 25 my boyfriend now at the time.</p>
<p style="text-align: right;">Page 1200</p> <p>1 It was -- it was so real, and how many people 2 it had affected, and how they react. And it -- most 3 of those women had had an abortion that were in my 4 group. 5 So we -- we -- after the main speaker, we all 6 go off into our small Bible groups, okay? 7 Anyway, the six or eight women that were 8 sitting around our table -- or my table, that we 9 were at, I think maybe two, it was just a family 10 member that it had affected or a friend, but the 11 rest of them, they had had an abortion. And we were 12 all about -- not the same age, but pretty close -- 13 because I'm 57. And 65, you can do the math. I'm 14 57. 15 And I just couldn't believe how many women it 16 had affected and how they all felt. And what all 17 they went through. And how many, too, in the group 18 could not have children after the fact. 19 And then -- and some family members that had 20 lost women in their family, or, you know, a sister, 21 or whatever, to depression from it. And they took 22 their own life. 23 I -- it was all an experience for me. I had no 24 idea that, you know, that everybody felt like me, I 25 guess.</p>	<p style="text-align: right;">Page 1201</p> <p>1 And so for me, on that day, when -- and it was 2 all on forgiveness for yourself. 3 I finally felt like I had been forgiven by God. 4 Q. Did you pray? 5 A. Oh, yeah. 6 Q. Tell me about it. 7 A. And I haven't stopped since. 8 I just asked him, I said, I need to know -- I 9 mean, over the years, I kept saying, I'm so sorry, 10 I'm so sorry, I'm so sorry for what I have done. 11 I have taken, you know, this little baby, I'm 12 praying that he or she is in heaven. 13 I just wanted him to forgive me, but I needed 14 to forgive myself. And if he would just -- I just 15 need to feel like I can move on. 16 And it took a long time, but I just felt him 17 move inside me. And it was, like, God just said, it 18 is done, it is over, it is okay. 19 And I just let go of it from there on out. But 20 I made a promise to him when that happened. And I 21 said -- and this is one of the things that when I 22 was at the group -- I said I will never, ever, if I 23 can help it, let this happen to another young girl, 24 woman ever again, that I will do whatever I can to 25 save another baby in the womb.</p>

<p style="text-align: right;">Page 1202</p> <p>1 Q. And what did you do in that regard?</p> <p>2 A. I got involved in -- it was called -- well, it</p> <p>3 was a group of ladies that did a whole plethora of</p> <p>4 things, but one of them was called The Exodus Group.</p> <p>5 And it was all about women and children, and</p> <p>6 then abortion. So it was kind of a collective.</p> <p>7 Q. Were you going out and protesting at Planned</p> <p>8 Parenthood?</p> <p>9 A. No, I have never protested at Planned</p> <p>10 Parenthood.</p> <p>11 Q. What did Exodus do, and what did you do with</p> <p>12 Exodus?</p> <p>13 A. Well, we partnered up with a pregnancy center.</p> <p>14 It was in -- I want to say it was in Keller. It may</p> <p>15 have been Grapevine, I can't remember. A small</p> <p>16 little place.</p> <p>17 We donated our time, we donated funds, we</p> <p>18 donated -- and then things for babies, when these</p> <p>19 young girls or ladies would come in that couldn't</p> <p>20 afford things for their baby, if they decided they</p> <p>21 wanted to keep their baby, we helped them.</p> <p>22 We gave them resources, especially for young</p> <p>23 moms. And that would have been me. So we had girls</p> <p>24 anywhere from, I would say, 15 on up.</p> <p>25 Q. Did you talk to them?</p>	<p style="text-align: right;">Page 1203</p> <p>1 A. Yeah. There was a couple of us that would</p> <p>2 donate our time and actually -- because these girls,</p> <p>3 a lot of times, they are still torn. They don't</p> <p>4 know if that is what they want to go and do.</p> <p>5 So now you can seek out these places. I mean,</p> <p>6 there are so many avenues now that they can go to</p> <p>7 instead of just going to a Planned Parenthood or</p> <p>8 another abortion facility.</p> <p>9 I'm going to tell you, abortion facilities do</p> <p>10 not advertise these pregnancy centers.</p> <p>11 We have actually tried through some</p> <p>12 organizations to get them to put those things in</p> <p>13 these abortion facilities, but they refuse.</p> <p>14 So, yeah, I told them my experience. I told</p> <p>15 them what I went through. I told them what the</p> <p>16 experience was like in that room when I had that</p> <p>17 abortion.</p> <p>18 I told them, you know, everything that I felt,</p> <p>19 and you may carry this for the rest of your life.</p> <p>20 It is going to be something that is going to stay</p> <p>21 with you forever. It's never going to go away.</p> <p>22 Q. So girls that, nonetheless, decided to have an</p> <p>23 abortion, did you still love them?</p> <p>24 A. Oh, yes. Yes. I mean, I would hope somebody</p> <p>25 would have loved me then.</p>
<p style="text-align: right;">Page 1204</p> <p>1 Q. And even though you think it's taking a life,</p> <p>2 are you judging them in any way?</p> <p>3 A. No, I'm not. I'm not judging them.</p> <p>4 Q. So anything else you want to tell us about your</p> <p>5 work at Exodus Group?</p> <p>6 A. It was the most beautiful thing to watch, that</p> <p>7 these girls that had -- especially the younger</p> <p>8 ones -- and a lot of them didn't have the support of</p> <p>9 their families, either.</p> <p>10 It kind of moved on to other things, though,</p> <p>11 too. And let me explain that.</p> <p>12 So not only would we take care of the girls and</p> <p>13 help them and then prepare them for their little</p> <p>14 babies, we also had a housing apartment place that</p> <p>15 we had in Dallas that, through the church and</p> <p>16 through this pregnancy center, had purchased.</p> <p>17 And so what they would do is they would</p> <p>18 actually house these young girls in an apartment and</p> <p>19 help them get on their feet and help them realize</p> <p>20 that this isn't the end of their lives.</p> <p>21 These choices -- even if they gave their babies</p> <p>22 up, we also helped with placing them with certain</p> <p>23 adoption agencies if they wanted to go that route.</p> <p>24 But the most beautiful thing for me to watch</p> <p>25 was when those younger girls -- and that would have</p>	<p style="text-align: right;">Page 1205</p> <p>1 been around my age -- that didn't have that support,</p> <p>2 how, when they went to the Exodus house that we had,</p> <p>3 or the apartment building, to see them with their</p> <p>4 little babies and know that they were going to</p> <p>5 thrive with their children and their life wasn't</p> <p>6 going to stop.</p> <p>7 We were going to try and help them any way we</p> <p>8 could so that they could go to school, so that they</p> <p>9 could get a job, so that they had daycare for those</p> <p>10 babies.</p> <p>11 That right there, for me, I wished -- if I</p> <p>12 would have known that there were avenues like that</p> <p>13 when I was younger, I would have gone and sought</p> <p>14 them. But I just -- I didn't know.</p> <p>15 Q. And has abortion and your view of that and how</p> <p>16 to deal with that, did that continue on through</p> <p>17 present day?</p> <p>18 A. Yes, it has.</p> <p>19 And just to add to that, now I have a beautiful</p> <p>20 daughter with my boyfriend, who I was telling you</p> <p>21 about, my second -- he's my husband of 24 years now.</p> <p>22 And I have beautiful -- she's now 19 and going to</p> <p>23 college. Beautiful young lady. And I also have a</p> <p>24 grandbaby.</p> <p>25 Q. And what about your relationship with God?</p>

<p style="text-align: right;">Page 1206</p> <p>1 A. My relationship with God is everything that 2 sustains me, guides me, keeps me whole. 3 And it's why I'm here today. 4 Q. I want to move on and talk about the Union and 5 Southwest Airlines, but I don't want to leave it if 6 there is something else in this event in your life 7 that you are talking about and God and abortion that 8 we haven't mentioned. 9 A. I just know that I have been forgiven and I 10 want to do as much as I can to help somebody else. 11 And I just want to make this clear, though, 12 too. I don't preach my religion or my Christianity, 13 my belief in Jesus, okay, I don't shove that onto 14 anybody else. 15 Do I hold that close and do I say, you know, 16 things out loud? Yes, I do. 17 But I'm never going to deny Him after all of 18 the things that He's done for me through this time 19 period, from that moment that I had when I took a 20 life. I know He's forgiven me. 21 Q. All right. I appreciate that. 22 And I -- I wanted you to have that opportunity 23 so people could understand the things that happened 24 in 2017, okay? 25 Now I want to talk about you and Southwest</p>	<p style="text-align: right;">Page 1207</p> <p>1 Airlines. So I think you said you started a job at 2 Southwest Airlines in 1996. 3 How did that come about? 4 A. Well, like I said, I had flown for American, 5 and after I had my son, I really wanted to go back 6 to flying. But before I got on with American, I had 7 actually applied once, and then -- well, twice, 8 because the third time was when I got on. 9 I got the job. 10 Q. How did you get it? 11 A. I had to, you know, apply, and we went to 12 the -- the way it was done before was you actually 13 went and had a group interview and then you had a 14 one-on-one interview, which I really wish they would 15 get back to. I don't know if that is what they do. 16 But it was a one-on-one. It was a very good 17 conversation with the leader, and then you got to 18 meet the people in the group when, you know, you are 19 interviewing. It's just an exciting time. 20 I got the job, and then I ended up having to 21 take a drug test and they do a background test and 22 all of that stuff. And then they okayed me for 23 class. 24 Q. Let me ask you, did they provide health 25 benefits to you?</p>
<p style="text-align: right;">Page 1208</p> <p>1 A. Not during -- not during -- they don't pay you 2 or anything like that before you go to training or 3 in training. But when you get there, yes. 4 Q. When you start the job. 5 Was that important to you? 6 A. Oh, yes. Yes. Because at that time I didn't 7 have insurance. My husband at the time, ex-husband, 8 then, he was working on his own, so he had his own 9 company, and we didn't have insurance to take care 10 of my son at that time. 11 So, yes, it was very important for me to go 12 back to a company, because we were divorced now, 13 back to a company that I knew I had those health 14 benefits for him. 15 Q. And then is there some kind of training? You 16 said it, but I -- 17 A. Yeah. So for us back then, I believe it was 18 six weeks of training. Pretty intense training 19 actually back then. 20 I didn't stay at the hotel at that time because 21 I still had my -- you know, I had my son, so I went 22 home every night and took care of him and studied 23 and came back during the day. 24 But then finally got on line and I -- 25 Q. Getting on line means?</p>	<p style="text-align: right;">Page 1209</p> <p>1 A. It means that you get your wings and you go on 2 a -- I forget what they called it back then. I 3 think it's an OE now or an IOE, whatever it was back 4 then. 5 So you go on a training flight. And back then 6 it was like -- I did eight legs for the day. So it 7 was the Texas eight leg day. 8 Q. Having worked at American as a flight 9 attendant, did you know you enjoyed being a flight 10 attendant, or did you find it -- 11 A. I loved it. I loved it. 12 Q. What did you love about it? 13 A. I absolutely loved it. 14 Well, I'm a people person. I like being around 15 people. I don't thrive very well not having contact 16 with others. 17 I loved being on the airplane, I loved serving 18 the people on the airplane, I loved meeting the 19 people on the airplane. I flew with some wonderful 20 people crew-wise, both cockpit crew, flight crew. 21 It was just -- it was, you know -- and you 22 don't have -- I mean you set the tone when you are 23 on the airplane. You get to -- it's like your 24 little work atmosphere. It's your office. 25 And for me, I loved flying C. So because --</p>

<p style="text-align: right;">Page 1210</p> <p>1 Q. Flying what?</p> <p>2 A. Flying C. Position C at Southwest.</p> <p>3 Q. I have no idea that that is.</p> <p>4 A. So that's the overwing -- overwing window exit</p> <p>5 area.</p> <p>6 Q. Maybe everybody else understands. I have been</p> <p>7 on a plane before, but --</p> <p>8 A. Okay. So you know where the emergency exit row</p> <p>9 is?</p> <p>10 Q. I do.</p> <p>11 A. Okay. So that was my favorite place to fly.</p> <p>12 Q. Okay. Got it.</p> <p>13 A. And the reason being was because when people</p> <p>14 are getting on, we don't have a seating chart or</p> <p>15 whatever on Southwest, it's open seating. And so a</p> <p>16 lot of the times, you know, especially families</p> <p>17 would come back towards the back. And so, you know,</p> <p>18 the kids and the families and make them comfortable.</p> <p>19 But I get to meet a lot of these people because</p> <p>20 they are having to pass me. You know, you get to</p> <p>21 say hello, and so on and so forth.</p> <p>22 I flew A quite a bit at the beginning, loved</p> <p>23 that, but C, I just -- you got to build this rapport</p> <p>24 with people that were sitting right around you, you</p> <p>25 know. And it's really interesting, the world is</p>	<p style="text-align: right;">Page 1211</p> <p>1 really small.</p> <p>2 Q. How so?</p> <p>3 A. I would meet people -- we would get to talking,</p> <p>4 you know, as people are getting seated, and I'm</p> <p>5 sitting over at the overwing, and you would hear a</p> <p>6 conversation, you know, behind you or the people in</p> <p>7 front of you, and they would say something about</p> <p>8 something that either they worked at or somebody</p> <p>9 they knew or -- it was just -- I would be like, oh,</p> <p>10 my gosh, I didn't know you know -- like my neighbor,</p> <p>11 or just -- it was a small world.</p> <p>12 And it's really a great world, to be quite</p> <p>13 honest with you, out there. I loved -- it's</p> <p>14 actually a better world than you think when you are</p> <p>15 up in the airplane.</p> <p>16 Q. Okay.</p> <p>17 A. No, seriously, going from coast to coast.</p> <p>18 Q. It's not always my experience on the plane, but</p> <p>19 okay.</p> <p>20 A. I did. I loved it.</p> <p>21 Q. So how did you feel about Southwest Airlines as</p> <p>22 a company then?</p> <p>23 A. Oh, my gosh. It was the best company to work</p> <p>24 for.</p> <p>25 Q. Better than American Airlines?</p>
<p style="text-align: right;">Page 1212</p> <p>1 A. Yes.</p> <p>2 Q. Oh, come on now.</p> <p>3 A. You weren't just a number.</p> <p>4 On American I knew where I stood. I was a</p> <p>5 number.</p> <p>6 Q. I'm joking about that. I'm not saying anything</p> <p>7 bad about American.</p> <p>8 A. No, I'm not saying anything bad about American.</p> <p>9 it was just a different culture.</p> <p>10 Q. Okay. Tell me about how you felt about</p> <p>11 Southwest Airlines when you went to work there.</p> <p>12 A. Well, Southwest Airlines was -- our CEO back</p> <p>13 then and our president was Herb Kelleher, who was</p> <p>14 just the most amazing person to work for. Amazing.</p> <p>15 He was a people person. He would get on our</p> <p>16 flights. I had him on --</p> <p>17 Q. He did?</p> <p>18 A. Oh, yes, I had him on several flights out of</p> <p>19 Dallas.</p> <p>20 What was funny, too, is I had him on a flight</p> <p>21 on an old 200 one time that he came back -- I know.</p> <p>22 You don't know what I'm --</p> <p>23 Q. I have no idea what that is.</p> <p>24 A. The oldest airplanes that we had, the little</p> <p>25 200s.</p>	<p style="text-align: right;">Page 1213</p> <p>1 And so we had --</p> <p>2 Q. All old.</p> <p>3 A. No, they are not. There's new ones now.</p> <p>4 But the club seating in the back of the 200,</p> <p>5 okay?</p> <p>6 So he came -- so there was a club seating, a</p> <p>7 bulkhead, and then you had the club seating in the</p> <p>8 overwing, a bulkhead, and then you had the -- it</p> <p>9 really wasn't first class, but it kind of looked</p> <p>10 like first class up in the front.</p> <p>11 So, but I usually worked in the back. So, you</p> <p>12 know, being C, I would be in the back.</p> <p>13 Well, I would -- you know, I was back in the</p> <p>14 back one afternoon, and I knew Herb was there,</p> <p>15 because, first of all, he says hello to everybody</p> <p>16 and hugs everybody. And, unfortunately, you can't</p> <p>17 even do that anymore, which I think is pretty crazy.</p> <p>18 But anyway, he'd get on the airplane, and he</p> <p>19 would remember your name. He may have only met you</p> <p>20 one time.</p> <p>21 Q. You have got a nametag, ma'am.</p> <p>22 A. Yes, I do know that. But he would know. He</p> <p>23 would know you. He'd be like, Oh, yeah, I saw you</p> <p>24 at blah, blah, blah, whatever.</p> <p>25 Anyway, so he would get up in the cockpit --</p>

<p style="text-align: right;">Page 1214</p> <p>1 now, this was, you know, still in the '90s, right?</p> <p>2 But he would get up there and start smoking in the</p> <p>3 cockpit. Those were his airplanes. And he would</p> <p>4 hang out with the pilots.</p> <p>5 But then, once we got up in the air, he would</p> <p>6 come back.</p> <p>7 So one time that I had him on the airplane, he</p> <p>8 came back to the very back and he was going to help</p> <p>9 put ice in the, you know, cups, and, I mean, he was</p> <p>10 helping us -- and pass out peanuts and everything</p> <p>11 else.</p> <p>12 My one question to him was, so in the old 200s,</p> <p>13 you'd come back to where the galley is and there was</p> <p>14 this door, this like accordion door thing that held</p> <p>15 all of our peanuts, all of our drinks, all of our</p> <p>16 ice and everything.</p> <p>17 But when you are taking off -- and, of course,</p> <p>18 we used to get out of our seats when we were still,</p> <p>19 you know, taking off, we weren't even at</p> <p>20 10,000 feet, I mean, as soon -- especially if you're</p> <p>21 going to Texas, you know, all throughout Texas.</p> <p>22 So as soon as those wheels get up off the</p> <p>23 ground, you're like, boom, gotta go. So you're back</p> <p>24 in the back, you are trying to hold all of the cups</p> <p>25 and glasses and everything, and you're trying to put</p>	<p style="text-align: right;">Page 1215</p> <p>1 stuff on your galley, right?</p> <p>2 He comes back -- and I'm doing, you know,</p> <p>3 trying to do the same thing, you know, trying to get</p> <p>4 my stuff on my tray and everything and get the</p> <p>5 peanuts ready, because I know that he's probably</p> <p>6 going to come back and serve peanuts.</p> <p>7 Q. I miss the peanut days. Go ahead.</p> <p>8 A. Yeah.</p> <p>9 Well, anyway, he rounds the corner and he goes,</p> <p>10 Hey, ladies, how is it going?</p> <p>11 And we are like, Hey Herb, you know. And we're</p> <p>12 getting hugs and whatever.</p> <p>13 And I go -- and so he starts doing his stuff</p> <p>14 with, you know, wanting to help with the ice and the</p> <p>15 cups and everything. And he goes, I'm going to pass</p> <p>16 out the peanuts. He goes, So let's go up.</p> <p>17 So I was, you know, going to help him pass out</p> <p>18 the peanuts from the middle section on back. But</p> <p>19 before I did that, I go, Hey Herb, I have one</p> <p>20 question for you.</p> <p>21 And he goes, Yeah, what is that?</p> <p>22 And I go, Who designed this galley with this</p> <p>23 door that you got to like open up and everything</p> <p>24 falls out at you when you are, you know, trying to</p> <p>25 set your galley up. I mean, Coke cans and peanuts</p>
<p style="text-align: right;">Page 1216</p> <p>1 and your cups and everything.</p> <p>2 And he just laughed and he goes, I guess you</p> <p>3 just have to go back to the drawing -- something to</p> <p>4 do with the drawing board at Southwest Airlines.</p> <p>5 And I go, Is there somebody I can talk to up</p> <p>6 there?</p> <p>7 He goes, I don't think so. We are stuck with</p> <p>8 these.</p> <p>9 Q. I've been asking you this so that the jury can</p> <p>10 understand that you truly loved your job. Is that</p> <p>11 fair to say?</p> <p>12 A. Yeah, I did. I loved -- I loved my job. I</p> <p>13 did.</p> <p>14 Q. Okay. And in 1996, after you cleared your -- I</p> <p>15 forget what you called it -- after you got on</p> <p>16 line --</p> <p>17 A. Uh-huh.</p> <p>18 Q. -- at that point in time, are you required to</p> <p>19 join a union?</p> <p>20 A. Oh, you're required to join that union before</p> <p>21 you even graduate. I mean it's the day of</p> <p>22 graduation.</p> <p>23 The union comes in. And I'm going to say this.</p> <p>24 They never gave us the option. They never said, you</p> <p>25 can opt out of this union. Never said that.</p>	<p style="text-align: right;">Page 1217</p> <p>1 Q. You know it now?</p> <p>2 A. Oh, I know it now, yes, I do.</p> <p>3 Q. We will get to that.</p> <p>4 But whenever you joined in 1996, was that</p> <p>5 explained to you?</p> <p>6 A. It was part of the employment. You had to be</p> <p>7 in the union. We are a closed shop. So you don't</p> <p>8 have the luxury to say, you know what, I don't want</p> <p>9 to be any part of this at all.</p> <p>10 So, yeah, the union comes in. You -- I</p> <p>11 guess -- I can't remember what all we did back then,</p> <p>12 but I know we had to sign something.</p> <p>13 And I was actually -- it was interesting, you</p> <p>14 all were talking about COPE. When I went through</p> <p>15 class, COPE was explained to us that it was</p> <p>16 something there to help flight attendants.</p> <p>17 Q. What is COPE?</p> <p>18 A. It's the political action fund stuff that</p> <p>19 they -- yeah.</p> <p>20 Q. What did they tell you COPE was?</p> <p>21 A. It was to help us as flight attendants. They</p> <p>22 never really said that it was a political-type</p> <p>23 thing. It was there to help us in our jobs and so</p> <p>24 on and so forth.</p> <p>25 I thought it was, believe it or not, I thought</p>

<p style="text-align: right;">Page 1218</p> <p>1 it was like one of those catastrophic fund-type 2 things that you put your money into, so I did the 3 two dollars every paycheck. 4 Q. So wait. 5 In addition to your union dues, you signed up 6 for more because you thought it was to help flight 7 attendants? 8 A. Yes. I did. 9 Q. Okay. That's 1996. 10 A. Yes. 11 Q. Do you recall seeing those emails earlier in 12 the trial about how happy your union was your head 13 would explode when you finally found out what COPE 14 was? 15 A. Yes, I did. 16 Q. How did that make you feel? 17 A. Not too good. Not especially since, you know, 18 it's the Union leadership making fun of, you know, a 19 member. I wouldn't think that that's, you know, 20 appropriate. They work for us. I mean, they are -- 21 they are there for us. 22 Q. Okay. Well, let's go back to 1996 when they 23 are telling you, from your understanding, is that 24 COPE is to help the flight attendants. They don't 25 explain that it's actually for a bunch of political</p>	<p style="text-align: right;">Page 1219</p> <p>1 causes that you may or may not agree with. 2 A. No. As a matter of fact, they tell you that 3 they stay out of politics. I was told that over and 4 over again. 5 Q. And so in 1996, were you anti-union? 6 A. No, I was not anti-union. I didn't know much 7 about the union at that time, but I wasn't 8 anti-union. 9 Q. In terms of how you think a union should 10 operate, are you anti-union? 11 A. No. I know why unions are there, I know 12 exactly why. Some are very, very good unions and 13 others are not. 14 Q. 1996, you joined the union. Tell me about your 15 union activities. 16 A. I went to -- well, at first I didn't go to a 17 whole lot of meetings at the very beginning, only 18 because I had a little boy at home, I was single, I 19 was flying to Chicago. You name it. 20 Q. Can I ask you about that? How are you a flight 21 attendant and a single mom, how does that work? 22 A. Well, whenever I flew, my son would go to his 23 daddy's house. So my ex and I, we ended up becoming 24 friends, basically, in raising our son together 25 basically. I mean, it's -- we lived near each</p>
<p style="text-align: right;">Page 1220</p> <p>1 other. We made sure that both parents were there 2 for him. We didn't separate him very much from 3 either one of us. 4 So when I was flying, he was with his daddy, 5 and then when I came back into town, he was with me. 6 Q. Okay. So not a lot of time for union meetings? 7 A. No, not at that time. He was little. 8 Q. Okay. And so at what point -- tell me your 9 view of your union in 1996, 1997, 1998. 10 A. Well, that was when -- 11 Q. Did you have a lot of knowledge? 12 A. Not a whole lot. I mean, I knew what they were 13 doing. I mean, I knew what they were there for, you 14 know. 15 That was back in the day of Paul Sweeten. I 16 had heard some good things and then some bad things 17 of the leadership. 18 But I -- the first union real membership that I 19 was like, wow, this is really messed up, was I had 20 come to Dallas, it was when we were going through 21 contract time, or contract negotiations. 22 Q. When is this? 23 A. Oh, gosh. You know what, I don't even remember 24 what year. It was -- 25 Q. If you're going past 2000, you're ahead of me.</p>	<p style="text-align: right;">Page 1221</p> <p>1 A. No, no, it was not past 2000. 2 Q. Go ahead. 3 A. It was sometime '96, '97, '98. I don't 4 remember when that contract was, when it was signed 5 in. Those years just kind of go together. 6 But I came to a union meeting here in Dallas, 7 and it was Paul Sweeten and his team, Garry 8 Drummond, and a ton of flight attendants, a ton of 9 flight attendants. 10 And they were discussing, you know, pay raises, 11 working conditions, you name it. 12 Q. That sounds good, right? 13 A. Yeah, it sounds good, until you're told by 14 Garry Drummond, who is TWU International -- and let 15 me tell you something, and I'm just going to be 16 really frank, he was drunk, he was drunk that night. 17 Q. Okay. 18 A. It was absolutely -- I just thought, wow, this 19 is what we have? 20 Q. Okay. Wait. 21 A. This is our main negotiator who is working with 22 our local to get our contract signed? 23 Q. And he's there to sell the contract? 24 A. Yes. 25 Q. What happens?</p>

<p style="text-align: right;">Page 1222</p> <p>1 A. Well, first of all, he tells us, That's the 2 best you are going to get. 3 And we were all going, well, wait a minute. I 4 mean, you really haven't taken much of what the 5 flight attendants wanted in and really negotiated 6 it. 7 There was a lot of, you know, back and forth. 8 I was not impressed, not impressed at all. 9 And so that's when I really started getting 10 more involved. And that contract was, in fact, 11 good. 12 Q. What happens next as it relates to your 13 relationship with your -- first of all, all of this 14 time you are paying dues and you are paying COPE, 15 right? 16 A. Yes. 17 Q. You are still thinking COPE is that 18 catastrophic fund -- 19 A. Yeah, I thought it was there to help flight 20 attendants. 21 Q. Did you know other flight attendants that 22 thought the same thing? 23 A. I knew of a couple, but I didn't really discuss 24 the COPE part of the union. I mean, it just -- I 25 didn't discuss what came out of my paycheck.</p>	<p style="text-align: right;">Page 1223</p> <p>1 Q. So you just thought you were doing something 2 good to help flight attendants. 3 A. Yes. 4 Q. So after this experience with the contract in 5 the '97, '98 time period, what happens next 6 regarding your knowledge about your union or 7 activity? 8 A. Okay. So after that bad contract, and a lot of 9 people were upset about that, they really wanted new 10 union leadership. And so there was a lady who had 11 been here for quite some time, her name was Melissa 12 Smith, and she was running on -- what her ticket was 13 called was clean sweep. 14 And so at first she was running by herself, 15 okay, and then Thom McDaniel, Cindy Ritner -- there 16 were quite a few other people -- Stacy Martin and 17 some others decided that they -- they talked to her, 18 and they ended up running, I believe, as a slate, 19 okay. 20 Q. Did you support that slate? 21 A. Oh, yeah. Because I liked Melissa's -- she 22 wanted to go in there, she wanted a good contract. 23 She wanted to work for the flight attendants. She 24 wanted to make sure the money was being spent 25 correctly within the office. Because we were pretty</p>
<p style="text-align: right;">Page 1224</p> <p>1 broke back then. There wasn't a whole lot of money 2 left after the last contract negotiations. 3 So, yeah, I supported her. I believed in her. 4 Q. Okay. What happened next? 5 A. Well, she got into office and I -- 6 Q. She got elected? 7 A. Yes, she did, by a pretty big margin. She got 8 elected and people were finally happy again and 9 hoping to see some changes. 10 Q. This is for the Local 556, correct? 11 A. Correct. 12 Q. So this is good news? 13 A. Yes, it is good news. 14 Q. How long was it good news? 15 A. Not very long. 16 Q. What happened? 17 A. You know, and I don't know exactly the time 18 period, but I would say within the first year she 19 was removed. 20 Q. What was your understanding of why she was 21 removed? 22 A. Well, I know from testifying for her, the 23 reason that they removed her was due to false 24 accusations against her. 25 Q. Okay. What were the accusations?</p>	<p style="text-align: right;">Page 1225</p> <p>1 A. Well, they were claiming, Thom McDaniel and 2 team, were claiming that she had embezzled money out 3 of TWU, and they were really pretty much trashing 4 her name through the system. 5 Q. What happened? 6 A. Well, what really happened was Stacy Martin had 7 had an incident at work, and it involved a young 8 lady that was working in the office, and he mooned 9 her, okay? 10 Q. In the office? 11 A. In the office, yes. 12 And the lady complained to Melissa. 13 And Melissa felt it was her duty, which it was, 14 because she was the president and also the person 15 that hired the office staff and so forth, so she's 16 their boss. 17 She ended up -- because this woman had 18 complained to her, had filed EEOC charges, I guess, 19 or an EEOC complaint. 20 Q. And what happened? 21 A. And she actually went to legal to speak about 22 that. And that is -- that's what they said -- that 23 would be in TWU, I believe in International. 24 And they said, yes, you should be doing this, 25 okay?</p>

<p style="text-align: right;">Page 1226</p> <p>1 So fast forward. Stacy Martin decides he's 2 going to file charges on her because Thom, Cindy, 3 and all of the rest of them wanted her gone. 4 Q. How did you end up getting involved in this? 5 A. Because I had flown with Thom and I had flown 6 with Stacy Martin and I had flown with -- who was 7 the other one? Karen Amos. 8 I hadn't flown with Cindy Ritner, but I knew 9 the scuttlebutt, let's put that it way. 10 Q. How did flying with them make you a witness? 11 A. The witness part of it was due to the fact that 12 I saw what they did to her in union meetings. Oh, 13 yeah. It was -- union meetings can get very heated. 14 A lot of words can be said, a lot of bad words can 15 be said, things can be shared there. 16 And the board treated her, along with Paul 17 Sweeten's team, like she was dog meat. 18 Q. She was the president of the local union? 19 A. Yes. 20 Q. And what kind of trial did you testify in? 21 A. Well, they removed her from office. 22 Q. Who is "they"? 23 A. Well, if my recollection has it correctly, they 24 filed charges on her, okay? So she was fighting 25 these charges, which is like a trial, I think you</p>	<p style="text-align: right;">Page 1227</p> <p>1 heard about that before. They filed charges on her. 2 Well, they removed her from her position at 3 that time, so Thom McDaniel ended up stepping into 4 the president's position. 5 While she was fighting these charges, okay, the 6 board had a board meeting, and the board decided to 7 charge her under Article 21, which is removal of an 8 officer. 9 So here she's fighting these charges over here, 10 okay, that are made up. Then what they do is they 11 have their union board remove her under Article 21. 12 So from there she loses the trial, per se, 13 through the Union, but then she filed a lawsuit. 14 Q. Okay. 15 A. And when she filed that lawsuit, I had known 16 all these people, flown with all these people, knew 17 the back story of all of this stuff, knew how she 18 had been treated in these meetings, along with she 19 didn't embezzle money. 20 Q. What happened at the trial? 21 A. I testified for her. 22 Q. Do you know the result? 23 A. Yes. She won. She won a judgment against the 24 Union for treating her the way that they did. Two 25 hundred and something thousand dollars. \$270,000, I</p>
<p style="text-align: right;">Page 1228</p> <p>1 think is what it was. 2 Q. So if I understand correctly, in 2000, elected 3 Union president, your candidate, wins, and then, 4 from your understanding, is improperly removed and 5 actually gets a judgment against the Union for what 6 they did? 7 A. Correct. And they didn't put -- they were 8 supposed to put her back in office and they did not. 9 And they continued the lie out on line for years. 10 And Southwest did nothing about it. 11 Q. Southwest has a relationship with the Union, 12 from your -- 13 A. Oh, and let me back up a minute. 14 MR. McKEEBY: Objection, leading. 15 THE WITNESS: Let me back up. I want to 16 be able to speak about this. 17 So Southwest Airlines, when Melissa became 18 president she was -- 19 MR. McKEEBY: Your Honor -- 20 THE WITNESS: -- pretty good friends -- 21 I'm sorry. 22 MR. McKEEBY: Objection. I don't think 23 there is a question that is being responded to. 24 THE COURT: Okay. Ask your question and 25 then you can answer.</p>	<p style="text-align: right;">Page 1229</p> <p>1 BY MR. PRYOR: 2 Q. Tell me what you wanted to say about Southwest 3 Airlines in that regard. 4 A. Okay. So Melissa had been at Southwest for 5 quite some time before I got on there. She was -- 6 she was, I believe, a four-digit number. So she had 7 been there quite a long time. 8 Q. I don't know what a four-digit -- 9 A. Well, a four-digit number meant she was kind 10 of -- not an original, but she was way up in 11 seniority, okay? 12 And she knew Colleen pretty well. I mean, 13 they -- she had worked with Colleen Barrett, who was 14 our president. Loved Colleen. 15 She was our culture, and they've lost that 16 culture. I loved that culture. It was -- it was 17 totally different than it is now. 18 But anyway, when she became president, Colleen 19 came to her and they had a meeting and she said, We 20 can no longer be seen together out of, you know, 21 office areas or whatever. Because they were 22 friends, and she had done other things with Colleen 23 throughout the years and so forth. 24 So anyway, she said that Union business is 25 Union business and Southwest business is Southwest</p>

<p style="text-align: right;">Page 1230</p> <p>1 business, and the two don't mingle and we stay out 2 of Union business. 3 Q. You like that? 4 A. Yes. 5 Q. When was that? 6 A. That was back in 2000 or whenever she was -- 7 whenever she was -- 8 MR. PRYOR: Any time. 9 THE COURT: I'm going to ask if we can 10 take our last break for the day, just a 10-minute 11 break, and then come back. 12 MR. PRYOR: My back is killing me. 13 THE COURT: Okay. Same instructions as 14 always, jury. You can talk to your fellow jurors 15 and court personnel, just not about the case. You 16 can't talk to anyone else. And don't do any 17 research. 18 We will see you back here in 10 minutes at 19 4:17. 20 All rise for the jury. 21 (The jurors exited the courtroom.) 22 THE COURT: You can't talk to anyone about 23 the case while you are a witness. 24 (The witness exited the courtroom.) 25 THE COURT: Okay. Anyone have anything to</p>	<p style="text-align: right;">Page 1231</p> <p>1 bring up? 2 MR. McKEEBY: I haven't been able to give 3 the assignment yet, so -- 4 THE COURT: Okay. We can give assignment. 5 We're looking for the question of whether 6 a witness who has left the stand but will be 7 recalled later can be told to not talk to anyone 8 about the case. 9 MR. McKEEBY: I appreciate that. 10 THE COURT: So the search continues for 11 all of us. 12 All right. We will take our break and I 13 will see y'all back here at 4:17. 14 (Recess.) 15 THE COURT SECURITY OFFICER: All rise. 16 THE COURT: We are still looking. So 17 first one wins a prize. 18 Okay. So are we ready for the jury? 19 MR. PRYOR: Were we going to find out the 20 answer or we are going to do that later? 21 THE COURT: What is that? 22 MR. PRYOR: The rule issue. I didn't know 23 if -- 24 THE COURT: We are still looking. So I 25 just said first person who finds out gets a Twix</p>
<p style="text-align: right;">Page 1232</p> <p>1 candy bar. 2 MR. HILL: Rule 615 on its face, I think 3 pretty clearly it applies to Mr. Schneider. 4 It says, "At the party's request, the 5 Court must order witnesses excluded so they cannot 6 hear other witnesses testify." 7 Mr. McKeeby has already told us that he 8 intends to recall Mr. Schneider. Mr. Schneider 9 remains a witness, and therefore, is excluded from 10 the courtroom. 11 MR. PRYOR: I don't think -- maybe that's 12 the issue. I don't know. 13 MR. HILL: Did I misunderstood the issue? 14 THE COURT: Well, it might be. I know 15 there is a Supreme Court case saying once a witness 16 has left the stand overnight but is coming back the 17 next day for their testimony where they're the next 18 witness on the stand, yes, they can be instructed to 19 not talk to anyone. 20 The question is, if they left the witness 21 box and another one comes in, then are they 22 discharged from their duty to refrain from talking 23 about the case. 24 MR. HILL: Okay. I'm all for it. 25 THE COURT: So you still have a facial</p>	<p style="text-align: right;">Page 1233</p> <p>1 argument. 2 MR. GREENFIELD: Your Honor, is there a 3 more recent case that you are aware of? 4 MR. PRYOR: I should have explained it a 5 little better. 6 MR. GREENFIELD: I apologize, Ms. Willis, 7 for the 12th time. 8 Is there a more recent case on point that 9 you are aware of other than Geders v. U.S. in '76? 10 THE COURT: Give me that citation. 11 MR. GREENFIELD: Yes, your Honor. 12 Okay. 425 U.S. 80, 96, Supreme Court, 13 1330. It's a '76 Supreme Court case. 14 THE COURT: What's that -- sorry. What's 15 the citation, the first page of that case? 16 MR. GREENFIELD: 425 U.S. 80. 17 THE COURT: 8-0. 18 MR. GREENFIELD: Yes. And what I'm 19 looking at in the synopsis is that the Supreme 20 Court, Mr. Chief Justice Burger, held that the trial 21 court's order preventing defendant from consulting 22 his counsel about anything during a 17-hour 23 overnight recess in the trial between his direct and 24 cross-examination deprive defendant of his right to 25 the assistance of counsel guaranteed by the Sixth</p>

<p style="text-align: right;">Page 1234</p> <p>1 Amendment.</p> <p>2 And that was -- that decision was reversed</p> <p>3 and remanded.</p> <p>4 THE COURT: Okay. So we are all looking</p> <p>5 for anything more recent than that.</p> <p>6 All right. Jury.</p> <p>7 MR. GREENFIELD: Your Honor, based on that</p> <p>8 case, I believe it says that it is acceptable for</p> <p>9 counsel to be able to address this witness.</p> <p>10 (The jurors entered the courtroom.)</p> <p>11 THE COURT: Okay. You can take a seat.</p> <p>12 Mr. Pryor, you can continue.</p> <p>13 BY MR. PRYOR:</p> <p>14 Q. Okay. Ms. Carter, I did want you to give the</p> <p>15 jury your background with your union and how it</p> <p>16 affects the activities that you have been involved</p> <p>17 in, but I might want to move you a little bit</p> <p>18 quicker, okay? And I understand there is apparently</p> <p>19 a lot. I appreciate explaining that experience in</p> <p>20 2000.</p> <p>21 Are we skipping over anything that you think is</p> <p>22 terribly significant before we get to 2013?</p> <p>23 A. No. No.</p> <p>24 Q. From 2000 to 2013, did you continue to be a</p> <p>25 union member?</p>	<p style="text-align: right;">Page 1235</p> <p>1 A. Yes. I did.</p> <p>2 Q. Even after all of that stuff and Melissa and</p> <p>3 testifying against the Union, all of that stuff you</p> <p>4 talked about, why did you stay a union member?</p> <p>5 A. Because I didn't know I could opt out.</p> <p>6 Q. So you are still paying dues and you are still</p> <p>7 paying COPE.</p> <p>8 A. Yes.</p> <p>9 Q. So we are -- by 2017, we are 17 years into</p> <p>10 paying COPE.</p> <p>11 A. Yes.</p> <p>12 Q. So how active were you in the union from 2000</p> <p>13 to 2013?</p> <p>14 A. I had gone to several union meetings, but they</p> <p>15 were sporadic. Some in Dallas, and then eventually</p> <p>16 when I moved to -- well, I think I went to one or</p> <p>17 two, maybe, in Phoenix. I'm trying to think.</p> <p>18 Because I don't know if that was -- that may have</p> <p>19 been when Audrey was in office. I can't remember.</p> <p>20 I didn't go to that many union meetings --</p> <p>21 yeah, union meetings. For one, usually they were on</p> <p>22 a date that I was flying, which was hard, and at</p> <p>23 that time, you know, if you wanted to go to another</p> <p>24 base, you had to get on the airplane and go there.</p> <p>25 I was always hoping that they would do them</p>
<p style="text-align: right;">Page 1236</p> <p>1 electronically as in a union meeting being there in</p> <p>2 person, but yet still having the ability, which I</p> <p>3 think we were getting to, in 2012, and then that got</p> <p>4 shut down.</p> <p>5 Q. So from 2000 to let's say 2012, you weren't</p> <p>6 terribly active but still a dues-paying member?</p> <p>7 A. Yes. Yes.</p> <p>8 Q. What happened in 2012-2013?</p> <p>9 A. Well, it was another slate that was put in, and</p> <p>10 that would have another election.</p> <p>11 Q. Okay. Tell me about the slate that you</p> <p>12 supported.</p> <p>13 A. Okay. So -- which is interesting because it</p> <p>14 involved Stacy Martin, who had harmed Melissa back</p> <p>15 in the day.</p> <p>16 Q. Wait. The mooner?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Go ahead.</p> <p>19 A. So it was Stacy Martin, Chris Click, Jannah</p> <p>20 Dalak, Don Juan, and I can't think of who all the</p> <p>21 other people were. Because there is executive board</p> <p>22 members that sit, you know, like the president and</p> <p>23 so forth. Jerry Lindemann, was the other one. He</p> <p>24 was our treasurer.</p> <p>25 And then we have executive board members that</p>	<p style="text-align: right;">Page 1237</p> <p>1 are the domicile board members. I can't remember</p> <p>2 who all was the domicile board members.</p> <p>3 But, yeah, we voted in the main people were the</p> <p>4 ones that we wanted in.</p> <p>5 Q. Okay. Is that the Click group?</p> <p>6 A. Yes, it sure is.</p> <p>7 Q. So why did you support the Click group?</p> <p>8 A. Well, because I liked Jannah Dalak, Don Juan.</p> <p>9 I didn't know Jerry Lindemann all that well. But we</p> <p>10 needed a change. And then --</p> <p>11 Q. Why did you need a change?</p> <p>12 A. Well, because some people had been in there for</p> <p>13 such a long time. I mean, it's kind of like the</p> <p>14 government. You kind of got to start having some</p> <p>15 term limits.</p> <p>16 So anyway, so I trusted -- and I also trusted</p> <p>17 Chris Click. Chris Click and I had had many</p> <p>18 discussions because at first he didn't really know</p> <p>19 about what Melissa was all about. And so we had had</p> <p>20 discussions. He wasn't actually a fan of hers for a</p> <p>21 while.</p> <p>22 So anyway, fast forward to 2012, whenever it</p> <p>23 was, the election. They got elected in.</p> <p>24 And before -- let me back up. So Stacy Martin</p> <p>25 was a part of that trial. I had to call --</p>

<p style="text-align: right;">Page 1238</p> <p>1 Q. What trial?</p> <p>2 A. Well, the trial for Melissa.</p> <p>3 Q. So you are going back to 2000 on me?</p> <p>4 A. Yeah, I'm just --</p> <p>5 Q. I'm on a time clock.</p> <p>6 A. I know. I know.</p> <p>7 So Stacy Martin helped remove Melissa. Fast</p> <p>8 forward. I had to talk to Stacy before I could vote</p> <p>9 for him --</p> <p>10 Q. Okay.</p> <p>11 A. -- and make sure -- I had to really, I guess,</p> <p>12 trust him per se. So I actually called him at home</p> <p>13 and we had a long conversation.</p> <p>14 Q. Okay.</p> <p>15 A. So I voted for that entire slate.</p> <p>16 Q. All right. And does that slate get elected?</p> <p>17 A. Yes.</p> <p>18 Q. And what happens?</p> <p>19 A. Pretty much the same thing that happened the</p> <p>20 last time with Melissa.</p> <p>21 Q. Tell us your understanding of what happened</p> <p>22 this time.</p> <p>23 A. Well, supposedly I'm hearing --</p> <p>24 Q. Pretty short?</p> <p>25 A. -- it's embezzling again, money, this, that and</p>	<p style="text-align: right;">Page 1239</p> <p>1 the other.</p> <p>2 But I can tell you this.</p> <p>3 MR. GREENFIELD: Objection, your Honor.</p> <p>4 Lack of foundation. Unless that's laid, it's</p> <p>5 hearsay testimony.</p> <p>6 THE COURT: I will allow it as effect on</p> <p>7 listener.</p> <p>8 You may proceed.</p> <p>9 THE WITNESS: Okay.</p> <p>10 Well, they just testified for it</p> <p>11 yesterday. They said something to do with money or</p> <p>12 something. Anyway.</p> <p>13 BY MR. PRYOR:</p> <p>14 Q. Tell us what your understanding is.</p> <p>15 A. Okay. So you go back to -- okay. Now I've</p> <p>16 lost my train of thought.</p> <p>17 Q. In 2013, what happened with the Click slate</p> <p>18 that got elected?</p> <p>19 A. Okay. So the people that don't like us as</p> <p>20 opt-outers or --</p> <p>21 Q. Wait a minute. Were you an out-opter at that</p> <p>22 time?</p> <p>23 A. No, not yet. Not yet.</p> <p>24 What I'm talking about, the people that keep</p> <p>25 turning people in right now, like Brian Talburt and</p>
<p style="text-align: right;">Page 1240</p> <p>1 so forth.</p> <p>2 Q. Um-hmm.</p> <p>3 A. Okay. Those people kept filing charges against</p> <p>4 Chris Click, Stacy Martin. I think it was pretty</p> <p>5 much Stacy Martin for the most part, and Chris</p> <p>6 Click, okay. They kept filing charges on them. And</p> <p>7 they were constantly badgering them. All right?</p> <p>8 They could never really do the union work.</p> <p>9 Q. They are in office, but from your</p> <p>10 understanding, they are being barraged with</p> <p>11 complaints by --</p> <p>12 A. Yes.</p> <p>13 Q. -- the older group.</p> <p>14 A. Yes. And we all knew this.</p> <p>15 Q. The losing group.</p> <p>16 A. Yes, absolutely.</p> <p>17 Q. All right. What happened?</p> <p>18 A. So eventually I don't know what all happened to</p> <p>19 actually have International come in and then remove</p> <p>20 them again, but they got removed.</p> <p>21 Q. So once again the elected officials are removed</p> <p>22 by International?</p> <p>23 A. Correct. Three of them. It was Chris Click,</p> <p>24 Jerry Lindemann, and Stacy Martin. And Stacy Martin</p> <p>25 was our president.</p>	<p style="text-align: right;">Page 1241</p> <p>1 Q. And who takes over?</p> <p>2 A. At that time they put in Audrey, and I think</p> <p>3 Audrey became the first vice president. And I don't</p> <p>4 know how all that -- the other person that I guess</p> <p>5 had come in second for president either didn't want</p> <p>6 it -- I don't know.</p> <p>7 But then she got moved up to president.</p> <p>8 Q. So did Audrey run for office?</p> <p>9 A. Against that slate, yes.</p> <p>10 Q. And did she win?</p> <p>11 A. No.</p> <p>12 Q. So she lost, and the people that were elected</p> <p>13 are kicked out?</p> <p>14 A. Correct. All of the people that were in there</p> <p>15 after the fact were the slate that had been not</p> <p>16 voted in.</p> <p>17 Q. And how did you feel about that, your union?</p> <p>18 A. It was just another slap in the face for the</p> <p>19 people that voted them in.</p> <p>20 Q. And what did you decide to do?</p> <p>21 A. I went to one of my last union meetings. It</p> <p>22 was in 2013, it was in Denver. And Greg Hofer and I</p> <p>23 had come up with -- several of us, actually -- bylaw</p> <p>24 changes, because it was bylaw change time.</p> <p>25 So I went there to represent for Denver and</p>

<p style="text-align: right;">Page 1242</p> <p>1 make some bylaw changes.</p> <p>2 Q. What changes were you trying to make?</p> <p>3 A. Well, some of the wording in some of them and</p> <p>4 just different things that helped govern our, you</p> <p>5 know, union.</p> <p>6 Q. Okay.</p> <p>7 A. And at that time I was able to read all of the</p> <p>8 horrible things, because I had the floor at that</p> <p>9 time, all of the horrible things that those people</p> <p>10 had said and what they were doing to remove those</p> <p>11 people in the union office. Which I was pretty glad</p> <p>12 to do.</p> <p>13 Now, go back. I was a union member. I was</p> <p>14 reading their stuff. It had all kinds of nasty</p> <p>15 things in it that they had said about Stacy and all</p> <p>16 of them and how they removed them.</p> <p>17 And I didn't get turned in for that because</p> <p>18 when you are at a union meeting, the company can't</p> <p>19 do anything about that.</p> <p>20 Q. All right. At the meeting did anything happen?</p> <p>21 Did anyone threaten you?</p> <p>22 A. Yes.</p> <p>23 Q. What happened?</p> <p>24 A. At the end of the meeting, I was walking out --</p> <p>25 or I got up, my friend Kim Hensley and I were</p>	<p style="text-align: right;">Page 1243</p> <p>1 getting up, and then I was going over to talk to</p> <p>2 Chris Sullivan, who ended up being my representative</p> <p>3 when I got fired.</p> <p>4 I was walking, you know, out of the room or</p> <p>5 whatever, and Cuyler Thompson turned and he goes,</p> <p>6 Ms. Carter, Ms. Carter, if you ever say the word, if</p> <p>7 I hear of it again that you say the word</p> <p>8 "decertified" -- now, I'm paraphrasing right now</p> <p>9 because I don't know exactly how his phrasing was --</p> <p>10 I will file charges against you.</p> <p>11 And then I turned and Brett Nevarez was</p> <p>12 standing right behind me. He's a pretty tall guy,</p> <p>13 he's a big guy. And he said, or I will do it.</p> <p>14 Q. And after that, how did you feel about your</p> <p>15 union?</p> <p>16 A. I was disgusted with them and I opted out.</p> <p>17 Q. Tell us what -- I know the jury has heard it,</p> <p>18 but I want to get your understanding of what "opting</p> <p>19 out" meant.</p> <p>20 A. Okay. So a fee-based flight attendant, or an</p> <p>21 objector, what happens is, I still have to pay union</p> <p>22 dues out of my paycheck every month, okay? And I</p> <p>23 pay the exact same amount as everybody else.</p> <p>24 I don't get to go to union meetings, I don't</p> <p>25 get to vote contract if there is a contract coming</p>
<p style="text-align: right;">Page 1244</p> <p>1 up, okay.</p> <p>2 So I don't have a voice there, okay? But I</p> <p>3 still have a voice within my local.</p> <p>4 But I can't, like I said, I can't go to the</p> <p>5 union meetings and actually participate.</p> <p>6 The portion that -- so I paid the full dues,</p> <p>7 and every three months -- so it's every quarter --</p> <p>8 the international -- this is what I'm told -- the</p> <p>9 international part that they don't take out for</p> <p>10 political purposes is refunded back in a check.</p> <p>11 So within that quarter I usually got about a</p> <p>12 27, \$28 check that International would send back to</p> <p>13 me, but the local still takes out everything that</p> <p>14 they need from my paycheck.</p> <p>15 Q. Did you do it for \$27?</p> <p>16 A. Did I do it for \$27?</p> <p>17 Q. Right.</p> <p>18 A. Yeah, I did. We were hoping to get more</p> <p>19 members because people were pretty darn fed up. I</p> <p>20 forget what the number was, it was like 100 and</p> <p>21 something.</p> <p>22 But a lot of people were afraid to object and</p> <p>23 opt out because of the way we had been being</p> <p>24 treated.</p> <p>25 Q. Is the reason you wanted the \$27 you didn't</p>	<p style="text-align: right;">Page 1245</p> <p>1 want the union to spend the money on --</p> <p>2 A. Yeah, I didn't want International using the</p> <p>3 money --</p> <p>4 But, you know, the thing is, we don't know</p> <p>5 where all of that money goes. Okay. So when --</p> <p>6 when Audrey was saying, We don't pay Planned</p> <p>7 Parenthood, okay, our union dues are taken every</p> <p>8 month. Then a portion of that, and it's a big</p> <p>9 portion of it, goes to International, which is TWU</p> <p>10 International. Okay?</p> <p>11 But we fall under also the AFL-CIO. Then some</p> <p>12 of those dues go to the AFL-CIO, and they fund</p> <p>13 Planned Parenthood. So my dues do go to fund</p> <p>14 Planned Parenthood.</p> <p>15 Q. And so you opted out. And so now, at least in</p> <p>16 theory, they do not.</p> <p>17 A. That's a good question.</p> <p>18 Q. Now, it still goes to salaries of people that</p> <p>19 are involved.</p> <p>20 A. Correct.</p> <p>21 MR. GREENFIELD: Objection, your Honor.</p> <p>22 THE WITNESS: It goes to all of it. So</p> <p>23 my --</p> <p>24 MR. GREENFIELD: Objection, your Honor.</p> <p>25 He's leading the witness.</p>

<p style="text-align: right;">Page 1246</p> <p>1 THE COURT: I will sustain that. More</p> <p>2 open-ended.</p> <p>3 THE WITNESS: Okay.</p> <p>4 BY MR. PRYOR:</p> <p>5 Q. Now, after you opted out, how were you able to</p> <p>6 raise your concerns with your union since you</p> <p>7 weren't someone that could go to a meeting?</p> <p>8 MR. GREENFIELD: Objection, your Honor.</p> <p>9 He's still leading the witness.</p> <p>10 THE COURT: I'll allow that one.</p> <p>11 THE WITNESS: The only way to speak my</p> <p>12 voice, okay, was to call them, okay, which I had</p> <p>13 tried calling Audrey a couple of times. She doesn't</p> <p>14 return calls. She just -- and half the time she was</p> <p>15 never there. We never saw her. Well, I never saw</p> <p>16 her anyway.</p> <p>17 But she was -- we even had a whole thing</p> <p>18 about one time where she was missing.</p> <p>19 The next thing is I can either email her,</p> <p>20 but then, when she was running, she had put a</p> <p>21 Facebook page together that said "Audrey Stone,</p> <p>22 TWU." And the whole page was designed on when she</p> <p>23 was running. So she was putting things on that page</p> <p>24 the entire time that she was running.</p> <p>25 And then people were asking questions</p>	<p style="text-align: right;">Page 1247</p> <p>1 about her slate and people were asking questions</p> <p>2 about the union and so forth. So she used that</p> <p>3 platform as her union page.</p> <p>4 We also had a page which was connected to</p> <p>5 the Union on Facebook, but they shut it down to</p> <p>6 where you couldn't anymore ask questions, or you</p> <p>7 couldn't comment, that's what it was. They could</p> <p>8 put stuff on there, but you couldn't comment on it</p> <p>9 anymore. So they kind of censored us.</p> <p>10 So my only way was either email -- because</p> <p>11 she never returned phone calls -- or on her</p> <p>12 Messenger.</p> <p>13 So for me, when I was online, if I had --</p> <p>14 if I had seen something, because we are in all of</p> <p>15 these little Facebook -- and they are all private.</p> <p>16 She tries to claim that they are not, but they are</p> <p>17 all private, those -- and they are all</p> <p>18 union-activity related.</p> <p>19 So I would get a lot of the information</p> <p>20 either from flying or on these Facebook pages. So</p> <p>21 one is Fusion, one is One Love, one is Sassy Stew.</p> <p>22 I mean, there's a plethora of them, okay?</p> <p>23 So when I would see something, you know,</p> <p>24 that I didn't like and I knew what was going on, I</p> <p>25 messaged her, which is, I had every right to do.</p>
<p style="text-align: right;">Page 1248</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. And did you message her regarding events or you</p> <p>3 just were sending her a message every day?</p> <p>4 A. No. The first message from me was when I found</p> <p>5 out that they had the core group going on.</p> <p>6 So all those screen shots of how they had</p> <p>7 talked about -- and now, granted, Audrey was an</p> <p>8 admin on that page as well, okay? So there were</p> <p>9 certain people that were listed. She was an</p> <p>10 administrator.</p> <p>11 Q. The name of her admin on that?</p> <p>12 A. It was Audrey Stone TWU.</p> <p>13 Q. Okay. Go ahead.</p> <p>14 A. Okay. So anyway, it was all of their group.</p> <p>15 And, you know, I don't have any problem with that.</p> <p>16 If that is what they want, that is fine.</p> <p>17 But the way they were talking about the rest of</p> <p>18 the members was very derogatory.</p> <p>19 One of my friends, Steven Hobbs, they were</p> <p>20 actually talking sexual stuff about him, sexually</p> <p>21 harassing him, and he's a gay man.</p> <p>22 I just -- it blew my mind that they were</p> <p>23 getting away with -- oh, and then you have got, you</p> <p>24 know, the fucktard, you know -- they were -- they</p> <p>25 were making fun of and saying such nasty things</p>	<p style="text-align: right;">Page 1249</p> <p>1 about members. And it was getting passed around</p> <p>2 finally.</p> <p>3 Somebody, I don't know who it was in their core</p> <p>4 group, got ahold of it, and then we got ahold of it.</p> <p>5 Q. And did you --</p> <p>6 THE COURT: Hold on. Objection?</p> <p>7 MR. McKEEBY: Yeah, just -- objection, can</p> <p>8 we return to the question-and-answer form, as</p> <p>9 opposed to the narrative, non-responsive.</p> <p>10 MR. PRYOR: I will ask a question.</p> <p>11 THE COURT: Yes, please do.</p> <p>12 BY MR. PRYOR:</p> <p>13 Q. After finding out and seeing the messages of</p> <p>14 the core team members, did you send messages to</p> <p>15 Audrey Stone TWU?</p> <p>16 A. Yes. That was my first message to her, because</p> <p>17 they had been turned in to management and I was so</p> <p>18 glad somebody finally caught them.</p> <p>19 Q. And was this -- what year was this?</p> <p>20 A. It had to have been '15. 2015.</p> <p>21 Q. And was there an election going on?</p> <p>22 A. Oh, yes.</p> <p>23 Q. Were you involved in that?</p> <p>24 A. Yes, I was.</p> <p>25 Q. You couldn't vote?</p>

<p style="text-align: right;">Page 1250</p> <p>1 A. No, I couldn't vote, because I had already 2 opted out. But I was -- you know, if friends or 3 whatever would call me and ask me questions about 4 the slate, the other people that were running, yes, 5 I was involved in that. 6 You know, if they had questions. 7 Q. Did you ever Facebook message Audrey Stone TWU 8 about the removal of the Click team? 9 A. Yes, I did. 10 Q. And why did you do that? 11 A. Because they were -- well, first of all, Jerry 12 and Chris should have been put back in office. If 13 they had a problem with -- and, you know -- and 14 unfortunately, Janna and Don, who I adore, they 15 decided to resign. 16 So at that point, all of the other -- I think 17 most of everybody from that other slate came in, so 18 now they had control of the Union. 19 Ask that question again, what was the -- 20 Q. I think you have answered it. 21 A. Okay. 22 Q. So you did message about that. You messaged -- 23 you told us about the -- the core team 24 communications. 25 A. Yes. And can I say something about that?</p>	<p style="text-align: right;">Page 1251</p> <p>1 Q. Well, I have to ask you a question. 2 Tell me what you have to say about the core 3 team message. 4 MR. GREENFIELD: Objection, calls for a 5 narrative. 6 MR. PRYOR: I'm not sure if it does. 7 THE COURT: I will let her answer. 8 THE WITNESS: Okay. So the core team 9 were -- and every one of -- pretty -- I think every 10 one of their board members were on there, along with 11 the -- oh, what do you call it? The -- well, all of 12 the board members. So the domicile board members 13 and so forth were on there, and then some of the 14 other friends of theirs. 15 And Brian Talburt was one of them. And he 16 actually was, at one point, a shop stew. So when 17 they say he didn't have any relation to the union, 18 he was actually a shop stew. 19 So the core team actually -- and which I 20 agree, we should have freedom of speech. I am not 21 against anybody speaking freely online at all. The 22 problem was, is the core team -- the people on the 23 core team had been turning -- obviously, you have 24 seen that with Brian -- had been turning all of us 25 in for the same types of -- what? Conversations</p>
<p style="text-align: right;">Page 1252</p> <p>1 about the union, not -- some maybe hate speech or 2 whatever, but it is protected union speech on One 3 Love, Sassy Stew, all of these other ones, but they 4 were taking those screen shots and they were turning 5 it into the company, and the company was going after 6 them for social media. 7 But are the core team, when they got 8 turned in -- and there was a two-day meeting -- 9 MR. GREENFIELD: Objection, your Honor, 10 again, can we return to -- 11 THE COURT: We need to get a more concrete 12 question and answer. 13 THE WITNESS: Okay. 14 BY MR. PRYOR: 15 Q. And let me interrupt you -- and I appreciate 16 it. Is it fair to say you are passionate about 17 this? 18 A. Yes. Because it is a double standard. 19 Q. So I'm going to move forward a little bit. I'm 20 not saying we won't come back and let you tell us 21 about that. 22 A. Okay. 23 Q. But in the 2015 time frame, was there a 24 Collective Bargaining Agreement to be voted on? 25 A. Yes, there was.</p>	<p style="text-align: right;">Page 1253</p> <p>1 Q. And is that the Collective Bargaining Agreement 2 that was negotiated by the Audrey Stone team? 3 A. Yes. 4 Q. And what was your feeling about that? 5 A. Well, the TA that they brought to all of us -- 6 Q. What is TA? 7 A. Tentative agreement. 8 Q. Okay. So it is not a CBA yet? 9 A. Right. Now, I got to read it. I didn't get to 10 vote. So -- but yes, the TA. 11 That TA took us backwards from what we had, 12 what we already had, okay, that we had negotiated 13 over years of different contracts. They were 14 literally taking away a lot of what we -- what we 15 had negotiated. 16 So the contract, the TA was -- and we couldn't 17 figure out why. Why -- I mean, because eventually 18 you are going to have to come back out on line and 19 fly this -- or are you going to come back out and 20 fly this? Okay? 21 Q. "Fly this," meaning, you are going to have to 22 make the money that we are making? 23 A. Yeah -- well, and go through the new -- you 24 know, scheduling, or vacation point system, you name 25 it. Whatever was negotiated within that contract</p>

<p style="text-align: right;">Page 1254</p> <p>1 took us back instead of forward.</p> <p>2 And on top of that, they also took away the</p> <p>3 fact that it was going to be a bonus now instead of</p> <p>4 retro pay. Where before, we had always gotten retro</p> <p>5 pay from the date that that old contract expired.</p> <p>6 And from that time period until the new contract,</p> <p>7 okay, was ratified, you would get that new raise,</p> <p>8 okay, all the way back to when that contract was</p> <p>9 ready to be ratified.</p> <p>10 Q. That is a big deal?</p> <p>11 A. Oh, it is a huge deal. Because on top of not</p> <p>12 getting the money that you would have gotten with</p> <p>13 the retro pay -- which we had always gotten</p> <p>14 before -- the bonus was now going to be taxed at a</p> <p>15 bonus rate.</p> <p>16 So when the people actually -- so -- and so the</p> <p>17 first contract that -- everybody said no. It was an</p> <p>18 87 percent. They -- nobody -- everybody thought</p> <p>19 that they were working with the company, basically.</p> <p>20 And they were done.</p> <p>21 MR. GREENFIELD: Objection, your Honor.</p> <p>22 She's testifying to what other people believe at</p> <p>23 this point.</p> <p>24 THE COURT: I will allow it. Keep going.</p> <p>25</p>	<p style="text-align: right;">Page 1255</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. Let me -- and I get that -- your issues with</p> <p>3 the TA, and that is really what I was asking about.</p> <p>4 And did you communicate with your -- even as an</p> <p>5 objector -- your union about your objections about</p> <p>6 those issues?</p> <p>7 A. Yes.</p> <p>8 Q. And was this an important issue to you --</p> <p>9 A. Yes.</p> <p>10 Q. -- your contract with Southwest Airlines?</p> <p>11 A. It is our livelihood. It is our -- it is our</p> <p>12 safety on the airplane. It is our vacation time.</p> <p>13 It is the point system. It is -- yeah, it is -- I</p> <p>14 mean, it is -- it is what we now will be, you know,</p> <p>15 governed by as flight attendants. It is what --</p> <p>16 yeah, it is our -- it is our work rules.</p> <p>17 Q. And so you raised those issues as well?</p> <p>18 A. Yes.</p> <p>19 Q. I'm going to move to 2017.</p> <p>20 A. Okay.</p> <p>21 Q. And there may be more. And we will be back on</p> <p>22 Monday. Sorry, but we will.</p> <p>23 The -- in 2017, did your union get involved in</p> <p>24 something that upset you?</p> <p>25 A. Well, they had gotten involved in quite a few</p>
<p style="text-align: right;">Page 1256</p> <p>1 things, but yes, they did.</p> <p>2 Q. Okay. I'm talking about in January of 2017.</p> <p>3 A. Yes.</p> <p>4 Q. And tell me how you became aware -- first of</p> <p>5 all, what you were upset about and how you became</p> <p>6 aware of it.</p> <p>7 A. Well, how I became aware of it was -- so the</p> <p>8 march had already gone on. And I found out about it</p> <p>9 through One Love, which is one of our sites, and</p> <p>10 also through the Unity Magazine, that they had been</p> <p>11 to this march.</p> <p>12 Q. And what was upsetting you about -- I mean, you</p> <p>13 believe in women's rights, don't you? You believe</p> <p>14 in every women's rights --</p> <p>15 A. Yes, I do. I am a woman.</p> <p>16 Q. What is your problem?</p> <p>17 A. The main sponsor for that march -- and it had</p> <p>18 been televised and it had been talked about, so I</p> <p>19 don't know how anybody couldn't have known -- but it</p> <p>20 was Planned Parenthood who arranged that march along</p> <p>21 with -- there was another lady, I can't think of her</p> <p>22 name -- but she was a big woman's, you know,</p> <p>23 activist or whatever.</p> <p>24 But Planned Parenthood was the main sponsor of</p> <p>25 the march.</p>	<p style="text-align: right;">Page 1257</p> <p>1 Q. And how did you feel about your union being</p> <p>2 associated with that? And when I say "your union,"</p> <p>3 I know you are an opt out, but you are still a dues</p> <p>4 payor?</p> <p>5 A. Yes. So my money paid for that.</p> <p>6 Q. And that is still the only way that you can be</p> <p>7 represented to the company for a TA or a CBA?</p> <p>8 A. Correct.</p> <p>9 Q. See how I learned these initials?</p> <p>10 A. Yeah. So, first of all, I'm just going to</p> <p>11 leave my Christian value -- or, you know, not my</p> <p>12 Christian value system, but the abortion part, just</p> <p>13 by -- in one bucket. I mean, you were just saying</p> <p>14 buckets.</p> <p>15 Q. Okay. All right.</p> <p>16 A. Okay. So one bucket is we are professionals.</p> <p>17 Okay? That is how I view my job. I'm a</p> <p>18 professional. I dress professionally. When I get</p> <p>19 on the airplane, you know, I present myself as, you</p> <p>20 know, professional.</p> <p>21 They went to this march, and they were</p> <p>22 wearing -- and they were called, and excuse my</p> <p>23 language -- but it was called the Pussyhat Project.</p> <p>24 And it was in reference to Trump making a</p> <p>25 derogatory statement, and that was how that whole</p>

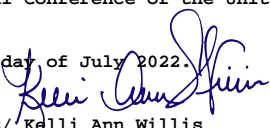
<p style="text-align: right;">Page 1258</p> <p>1 Pussyhat Project came to be. Okay?</p> <p>2 And these women went to the women's meeting,</p> <p>3 and they are actually in the pictures at the women's</p> <p>4 meeting knitting these pussyhats.</p> <p>5 And no, they are not just kitty cat ears, it is</p> <p>6 supposed to be the women's genital area.</p> <p>7 And this has been told to me also by one of</p> <p>8 their board members. Okay?</p> <p>9 So they go to this march, not only are they</p> <p>10 supporting something that half, if not more than</p> <p>11 half of the membership, a lot of them are men, a lot</p> <p>12 of us are Christians, or -- you know, it is not the</p> <p>13 whole group. They didn't represent all of us. But</p> <p>14 that is what they claimed.</p> <p>15 And they went to that march and they wore those</p> <p>16 hats. Now, if I want to be respected as a woman and</p> <p>17 really have women's rights, and be valued as a</p> <p>18 woman, there is no way I would wear that hat.</p> <p>19 Because it is supposed to resemble or -- yeah.</p> <p>20 Q. Okay. That is your personal view of that. And</p> <p>21 you expressed that view?</p> <p>22 A. Yes.</p> <p>23 Q. And you sent a communication, we have all seen.</p> <p>24 And we have just got a few more minutes.</p> <p>25 A. Yes, I did.</p>	<p style="text-align: right;">Page 1259</p> <p>1 Q. But I want to get to a couple things, we will</p> <p>2 come back to it Monday morning, judge allowing.</p> <p>3 So you complained about that. Did you also</p> <p>4 complain about Planned Parenthood?</p> <p>5 A. Yes, I did.</p> <p>6 Q. And you sent a video?</p> <p>7 A. Yes.</p> <p>8 Q. And in what manner -- did you send it to the</p> <p>9 public, what did you do?</p> <p>10 A. No. I sent -- so through that whole time</p> <p>11 period, of course, a lot of things were being shared</p> <p>12 on Facebook. And I came across several articles</p> <p>13 about the Women's March, and the things that went on</p> <p>14 there, and who was -- make a long story short, the</p> <p>15 things that, you know -- there was pro people there</p> <p>16 and pro choice people there, pro life and pro</p> <p>17 choice.</p> <p>18 And some of those pro life places are what I am</p> <p>19 on, okay, so I'm hooked to them. Those were some of</p> <p>20 the videos on some of the things that I had found.</p> <p>21 And for me, if I would have seen those before I</p> <p>22 went in to do what I did, I never would have done</p> <p>23 it.</p> <p>24 Q. And why did you send it -- well, first of all,</p> <p>25 when you sent it to Audrey Stone TWU, who were you</p>
<p style="text-align: right;">Page 1260</p> <p>1 sending it to?</p> <p>2 A. Audrey Stone TWU, my union president.</p> <p>3 Q. And why were you sending it to your union</p> <p>4 president?</p> <p>5 A. Because she is the leader of the Union that</p> <p>6 also sat on the women's committee and planned this</p> <p>7 march, and she led the march to DC.</p> <p>8 Q. Did you want dues spent on anything to do with</p> <p>9 that?</p> <p>10 A. No. I didn't want anything being spent on it.</p> <p>11 They can go and they can march all they want. But</p> <p>12 not on my dime.</p> <p>13 Q. So that is one of the reasons.</p> <p>14 But then did you also want to -- there to be an</p> <p>15 understanding about what abortion was?</p> <p>16 A. Yes.</p> <p>17 Q. And did you include a video?</p> <p>18 A. Yes, I did.</p> <p>19 Q. Was it sent privately?</p> <p>20 A. Yes, it was.</p> <p>21 Q. Could it only be opened up voluntarily?</p> <p>22 MR. McKEEBY: Object to form, leading.</p> <p>23 THE COURT: Yep, can you rephrase.</p> <p>24 BY MR. PRYOR:</p> <p>25 Q. Did you send it in a manner where it would pop</p>	<p style="text-align: right;">Page 1261</p> <p>1 up and you couldn't avoid it or would you have to</p> <p>2 voluntarily decide to look at it after having seen</p> <p>3 the subject matter?</p> <p>4 MR. McKEEBY: Same objection.</p> <p>5 THE COURT: I'll allow that form.</p> <p>6 THE WITNESS: No. You had to actually</p> <p>7 click on these, both of the videos you had to click</p> <p>8 on them.</p> <p>9 BY MR. PRYOR:</p> <p>10 Q. Were you doing that to try and have some impact</p> <p>11 on protecting unborn children?</p> <p>12 MR. GREENFIELD: Objection, your Honor</p> <p>13 leading.</p> <p>14 THE COURT: I'll allow it.</p> <p>15 THE WITNESS: I wanted her to understand</p> <p>16 that what she supported at that march, that was the</p> <p>17 main -- it was all about, you know, pro choice and</p> <p>18 women's right and you name it. But the main portion</p> <p>19 of it, was, you -- my body, my choice. Okay? And</p> <p>20 that is what she marched in. I helped pay for it.</p> <p>21 There is lot of us that didn't like that.</p> <p>22 And I felt like, you know what, the only way that I</p> <p>23 can express what you just helped or marched with,</p> <p>24 was sending those.</p> <p>25</p>

<p style="text-align: right;">Page 1262</p> <p>1 BY MR. PRYOR:</p> <p>2 Q. And you have been involved in this issue.</p> <p>3 Have you seen anything, in your opinion, more</p> <p>4 effective to explain what abortion is?</p> <p>5 A. No, I haven't. As a matter of fact, there is a</p> <p>6 whole group out there right now that -- it is not a</p> <p>7 group, it is an organization -- that actually is</p> <p>8 going up to people and asking questions about</p> <p>9 abortion, and do -- you know, are you for it, are</p> <p>10 you against it? And let me show you what happens.</p> <p>11 And a lot of times, people, when they see</p> <p>12 things like this, yeah, they are -- they had no</p> <p>13 idea -- a lot of people don't understand what really</p> <p>14 goes on and how big that baby really is and how much</p> <p>15 it is formed in just a short amount of time. And it</p> <p>16 is a baby. It is not just a clump of cells.</p> <p>17 I mean, we can say the same thing for a little</p> <p>18 puppy dog. I have got sonogram pictures of puppies</p> <p>19 and I have got sonogram pictures of babies, and they</p> <p>20 look a lot alike at the same stages.</p> <p>21 Q. So when you sent the communications to Audrey</p> <p>22 Stone TWU, did you believe you were speaking to your</p> <p>23 union?</p> <p>24 A. Yes. It had everything to do with the march.</p> <p>25 Q. When you sent your video to Audrey Stone TWU,</p>	<p style="text-align: right;">Page 1263</p> <p>1 did you believe you were also expressing your</p> <p>2 religious beliefs?</p> <p>3 A. Yes. I told God that I would never, ever stop</p> <p>4 fighting for life.</p> <p>5 Q. And we have just a few minutes, so I'm going to</p> <p>6 skip for now the fact-finding meetings.</p> <p>7 But did you ever in your wildest dreams think</p> <p>8 that your 21-year employer would fire you for</p> <p>9 exercising your union rights?</p> <p>10 A. No.</p> <p>11 Q. Did you ever in your wildest dreams believe</p> <p>12 that Southwest Airlines would fire you for</p> <p>13 expressing your religious beliefs?</p> <p>14 A. No.</p> <p>15 Q. Do you remember where you were when the job you</p> <p>16 loved for 21 years and the company you helped build</p> <p>17 called you and told you what the results of your</p> <p>18 fact-finding hearing was?</p> <p>19 MR. McKEEBY: Objection, leading.</p> <p>20 THE COURT: I will sustain that. You can</p> <p>21 rephrase.</p> <p>22 BY MR. PRYOR:</p> <p>23 Q. Tell us about how you found out about the</p> <p>24 results and what happened.</p> <p>25 A. Well, it was almost 5:00, and they wait until</p>
<p style="text-align: right;">Page 1264</p> <p>1 the very last minute of the very last day to call</p> <p>2 you. And --</p> <p>3 Q. Were you waiting for it?</p> <p>4 A. Yeah, I was waiting for it. I was waiting for</p> <p>5 one or the other, you know, either I was fired or I</p> <p>6 wasn't.</p> <p>7 And they literally wait until 5:00. And the</p> <p>8 phone finally rang and it was Ed Schneider, and he</p> <p>9 read the letter that you put up, my -- the letter</p> <p>10 that I was fired, and read it out loud to me.</p> <p>11 And --</p> <p>12 Q. What was your reaction?</p> <p>13 A. Well, my husband was standing there. And he,</p> <p>14 you know, he asked me if I had any questions, and I</p> <p>15 said no. And I had Beth Ross on the other side,</p> <p>16 because the union person was on the phone with me.</p> <p>17 And I just fell to my -- I fell to the ground and</p> <p>18 started crying.</p> <p>19 Q. Did you pray?</p> <p>20 A. Yeah, I did.</p> <p>21 MR. PRYOR: Your Honor, this is a good</p> <p>22 time to break for the week.</p> <p>23 Thank you, ma'am.</p> <p>24 THE COURT: Sounds good to me.</p> <p>25 Okay. So the same three instructions.</p>	<p style="text-align: right;">Page 1265</p> <p>1 You can only talk to your fellow jurors and court</p> <p>2 personnel, but not about this case; don't talk to</p> <p>3 anyone else; and don't do any research about the</p> <p>4 case.</p> <p>5 We will see you back here at 8:45</p> <p>6 tomorrow.</p> <p>7 All rise for the jury.</p> <p>8 Sorry. You've got the weekend off.</p> <p>9 Congratulations. We don't have the weekend off, but</p> <p>10 y'all do. We will see you on Monday.</p> <p>11 (The jurors exited the courtroom.)</p> <p>12 THE COURT: Okay. So you can leave the</p> <p>13 witness box, but don't leave the courtroom. I need</p> <p>14 five minutes to finish up my research.</p> <p>15 And then can we come back and talk about</p> <p>16 witness instructions?</p> <p>17 MR. McKEEBY: Your Honor, that's fine.</p> <p>18 THE COURT: I think it is an open question</p> <p>19 because I have to figure out Schneider and Stone,</p> <p>20 all at the same time. So the next five minutes,</p> <p>21 don't talk about the case. But you may be able to</p> <p>22 after that.</p> <p>23 MR. HILL: I think they are actually</p> <p>24 different answers, under Geders.</p> <p>25 THE COURT: What's that?</p>

<p style="text-align: right;">Page 1266</p> <p>1 MR. HILL: I think they are actually</p> <p>2 different answers under Geders.</p> <p>3 THE COURT: Yes. And that is not the</p> <p>4 latest case on the issue. So I will send y'all</p> <p>5 Harry v. Leak. That is another one to look at.</p> <p>6 That is 488 U.S. 272 from 1989.</p> <p>7 MR. McKEEBY: Can you say that cite again?</p> <p>8 THE COURT: It is 488 U.S. 272.</p> <p>9 MR. McKEEBY: And just as a practical</p> <p>10 observation, I mean, if the rule is that I can't</p> <p>11 talk to Mr. Schneider in this context, I mean, what</p> <p>12 would prevent plaintiff from calling all of the key</p> <p>13 defense witnesses, asking them -- getting them sworn</p> <p>14 in, asking them their name and address, and then</p> <p>15 dismissing them, and then, you know, I couldn't talk</p> <p>16 to -- you know, defense counsel can't talk to the</p> <p>17 witnesses. That can't be the rule.</p> <p>18 THE COURT: I see your point.</p> <p>19 MR. GREENFIELD: Your Honor.</p> <p>20 THE COURT: Okay. Give me five minutes.</p> <p>21 MR. GREENFIELD: Well, hold -- and may I</p> <p>22 just offer -- I haven't had a chance to look at</p> <p>23 this, but an associate brought me U.S. v. Torres, it</p> <p>24 is a Fifth Circuit case. 997 F.3d 624, 2021 case.</p> <p>25 THE COURT: All right. We will see y'all</p>	<p style="text-align: right;">Page 1267</p> <p>1 in five minutes.</p> <p>2 (Recess.)</p> <p>3 THE COURT SECURITY OFFICER: All rise.</p> <p>4 THE COURT: Okay. You can be seated.</p> <p>5 Let me tell you, after looking at all of</p> <p>6 the cases, my tentative leaning on each witness that</p> <p>7 we are talking about, Carter and Schneider, and then</p> <p>8 y'all can tell me why I'm wrong and talk me off my</p> <p>9 position.</p> <p>10 Okay. So for Carter, I'm looking at the</p> <p>11 cases we all talked about, and in addition, I'm</p> <p>12 looking at a case Potashnick versus Port City</p> <p>13 Construction. Potashnick is P-O-T-A-S-H-N-I-C-K.</p> <p>14 That citation is 609 F.2d 1101. It's</p> <p>15 Fifth Circuit from 1980. It talked about the</p> <p>16 general principles of Geders being applicable in</p> <p>17 civil cases as well, largely due to the Seventh</p> <p>18 Amendment right to a jury trial dating back to</p> <p>19 Biblical times of sequestering witnesses. So they</p> <p>20 seem to think it is a pretty old notion, pretty old</p> <p>21 practice, notwithstanding Rule 16.</p> <p>22 So basically, what I'm thinking about is</p> <p>23 obviously the principles of Geders cross apply when</p> <p>24 it is a civil litigant, and Potashnick is making it</p> <p>25 clear it is a civil litigant who is a party</p>
<p style="text-align: right;">Page 1268</p> <p>1 litigant. Right? And Carter is a party litigant.</p> <p>2 So I think the gist of what I gather from</p> <p>3 Potashnick is, I'm probably not able to sideline her</p> <p>4 from talking at a break as significant as a weekend</p> <p>5 from talking to counsel.</p> <p>6 I have concerns about coaching. But I</p> <p>7 think the way Potashnick, Geders, and the later</p> <p>8 Supreme Court case I gave you talks about when you</p> <p>9 have a heightened interest, like in a criminal case</p> <p>10 for a criminal defendant or a civil party litigant</p> <p>11 with a Seventh Amendment rights, that that right</p> <p>12 warrants in favor of the ability to talk to counsel,</p> <p>13 with cross-examination being the remedy for concerns</p> <p>14 about coaching.</p> <p>15 Does that make sense? So you can talk to</p> <p>16 your client, but they get to cross-examine on Monday</p> <p>17 everything, you know, you talked about. Right?</p> <p>18 Can't disclose privilege, but they can get as close</p> <p>19 as they can to ferret out what was talked about.</p> <p>20 Using the same framework, the tough thing</p> <p>21 for me to figure out is, who is Schneider? Does</p> <p>22 that make sense? So Southwest could be a litigant</p> <p>23 with someone who has an agent or an officer who has</p> <p>24 the same Seventh Amendment interest that Carter</p> <p>25 does.</p>	<p style="text-align: right;">Page 1269</p> <p>1 So the million dollar question becomes,</p> <p>2 who is Schneider? He's not the 30(b)(6). In</p> <p>3 Potashnick, in footnote 12, it talks about the</p> <p>4 president and CEO of that corporation being the</p> <p>5 officer or agent, notwithstanding whether or not</p> <p>6 they were a 30(b)(6).</p> <p>7 So we know it is broader than 30(b)(6).</p> <p>8 So I guess my question is, who is</p> <p>9 Schneider? So I don't have -- I don't have a</p> <p>10 definitive answer on Schneider. If he was a</p> <p>11 30(b)(6), I would say have at it. He's under the</p> <p>12 same position as Carter over the weekend. I don't</p> <p>13 know the answer as we sit here right now.</p> <p>14 MR. PRYOR: I don't believe he was a</p> <p>15 30(b)(6). He's not a designated representative.</p> <p>16 He's not an officer. Not a controlled person. I</p> <p>17 haven't read the case, your Honor, but he's a</p> <p>18 witness. And he's a -- I don't know if he's a</p> <p>19 base -- I think he's a base manager.</p> <p>20 THE COURT: And Southwest can talk to me</p> <p>21 about whether my tentative leaning on the cases is</p> <p>22 wrong or not and then facts about Schneider.</p> <p>23 And y'all talk to me about Carter too.</p> <p>24 Right? If I'm wrong on Carter, tell me I'm wrong on</p> <p>25 Carter.</p>

<p style="text-align: right;">Page 1270</p> <p>1 MR. McKEEBY: Well, I mean, Schneider is a 2 base manager of the Denver base and he's the 3 decision maker in the case. And I don't -- I think 4 Potashnick doesn't -- I agree, it talks in terms of 5 a party, so it may not be applicable. 6 But I don't think there is any other 7 contrary case law -- that I have found, anyway -- to 8 suggest that we couldn't talk to him over a weekend 9 break. Particularly given his importance in the 10 case. 11 And again, I go back to the argument that 12 I made before we broke, that if that were the rule, 13 then the litigant could effectively deprive counsel 14 from talking to their key witnesses by calling them 15 during their case in chief and asking them a couple 16 of simple questions, and -- after they were sworn 17 in. And then they would be barred from talking to 18 them at any point during the case, prior to putting 19 them on the stand, and that just can't be -- can't 20 be the rule. 21 THE COURT: Well, I think that is why that 22 person is normally designated as a corporate rep. 23 Right? That person with the most acute concern 24 there, if that makes sense. 25 MR. McKEEBY: Well, it doesn't, I mean,</p>	<p style="text-align: right;">Page 1271</p> <p>1 because there are -- you know, may be multiple 2 critical witnesses that may not be a corporate rep, 3 where you can only designate one corporate rep. 4 And so, you know, as such, they could 5 effectively bar communications between counsel and 6 these witnesses simply by calling them to the stand 7 and asking a few questions. And depriving the 8 client of the ability to communicate with their -- 9 THE COURT: I know your argument as a 10 general concern. I don't think that that has 11 happened in this case. 12 MR. McKEEBY: I'm not suggesting -- I'm 13 suggesting that that is why it can't be the rule 14 because of that potentially absurd result. 15 THE COURT: I understand that. 16 I don't see that result in this case. 17 But -- okay. So any other arguments on 18 Schneider, factually or legally? 19 MR. McKEEBY: And I have another argument, 20 your Honor. 21 I mean, this is a -- for Southwest 22 purposes, an employment case in which the critical 23 decision is the termination of Ms. Carter's 24 employment. So he's acting as the agent. He's the 25 decision maker and he's acting as the agent for</p>
<p style="text-align: right;">Page 1272</p> <p>1 Southwest as to that decision. 2 So in that sense, he is a party, every bit 3 as much as a corporate officer may or may not be, 4 like Sonya Lacore, who didn't have anything to do 5 with the decision. He's the agent as to the 6 decision at issue in the case. 7 THE COURT: Understood. Why is he not 8 your corporate rep, then? 9 MR. McKEEBY: Because he lives in Denver. 10 THE COURT: Okay. Response. 11 MR. PRYOR: Yeah. The response is, he was 12 the decision maker in the underlying facts in 2017. 13 I haven't read the case, judge. Based on what you 14 were saying, it sounds like it's talking about 15 someone involved in the litigation that is a control 16 person, or corporate rep, or something like that. 17 I mean, Mr. Schneider has not been a 18 player in this litigation. He was -- I guess he was 19 deposed. He was deposed and he took the stand. He 20 was a witness. 21 And he certainly, according to them, is 22 the one that made the decision to terminate her. 23 And if that is all it takes for a base manager -- 24 he's not a senior manager in the company -- to fire 25 someone, and that case there applies to him, okay.</p>	<p style="text-align: right;">Page 1273</p> <p>1 But it didn't sound like it. 2 THE COURT: Understood. So, I mean, my 3 view of this -- and I see the argument that he was 4 the decision maker in this case -- I think from 5 Potashnick, I'm looking at it as a party as a whole 6 and the party's rights as a whole. 7 I think what I would say is, I would allow 8 any corporate rep to then slide out from the pretty 9 restrictive officer or agent kind of notion, right? 10 And say, okay, name that person your corporate rep 11 and they get immune from the operation of the rule 12 and the restraint from talking about the case, but I 13 don't think I can get there with him. I think I 14 could if he were named the corporate rep. I just -- 15 I can't. 16 So I won't lift my restriction. I don't 17 know where Carter is. So I feel like under 18 Potashnick, Geders, I need to lift restriction on 19 Carter, but knowing full way you can cross exam to 20 the fullest extent any information on their 21 discussions. 22 MR. PRYOR: Your Honor, in regard to 23 cross-examination about communications with an 24 attorney? That is the spirit of that case, is they 25 are allowed to ask about communications with the</p>

<p style="text-align: right;">Page 1274</p> <p>1 counsel?</p> <p>2 THE COURT: Well, you can go read Geders</p> <p>3 over the weekend. So it -- that sounds like your</p> <p>4 homework. Right?</p> <p>5 Geders contemplates it, Potashnick</p> <p>6 contemplates it. They say that there is this</p> <p>7 balance, courts hate coaching of witnesses, and</p> <p>8 there is a right to counsel under the Fifth</p> <p>9 Amendment for criminal cases, under the Seventh</p> <p>10 Amendment for civil cases.</p> <p>11 And how we balance that out is, if it is a</p> <p>12 party litigant or a criminal defendant, we let them</p> <p>13 talk to their counsel, but let the other side</p> <p>14 cross-examine them on what coaching occurred.</p> <p>15 All right? So we are all going to have to</p> <p>16 figure out where that line is. Obviously, we can't</p> <p>17 compel her to disclose truly privileged information.</p> <p>18 But if I ask somebody, did you talk to</p> <p>19 your lawyer, what did you talk about, that is not</p> <p>20 privileged, right, it is just not. Everyone thinks</p> <p>21 that it is. But when you do a privilege log, all of</p> <p>22 that stuff is in the privilege log, and the</p> <p>23 privilege log is not privileged.</p> <p>24 MR. PRYOR: But what did you talk about?</p> <p>25 You don't get really into the specifics of that.</p>	<p style="text-align: right;">Page 1275</p> <p>1 THE COURT: What did your lawyer tell you</p> <p>2 is off limits. We all know that. So the question</p> <p>3 is, what did you talk about, and how granular you</p> <p>4 can go. That is the question.</p> <p>5 MR. McKEEBY: Your Honor, a couple of</p> <p>6 points. One is, I have spoken -- because I</p> <p>7 recognize now that Mr. Jones also, I think, resides</p> <p>8 in Colorado, so, I mean, there were other decisions</p> <p>9 in connection with --</p> <p>10 THE COURT: Sure. It is always a</p> <p>11 multi-factor analysis.</p> <p>12 MR. McKEEBY: It is a multi-factored</p> <p>13 assessment.</p> <p>14 But I would also like some guidance. I</p> <p>15 mean, is -- can I speak to him just generally</p> <p>16 about -- not about the case or about what witnesses</p> <p>17 talk about, but just about, you know, the things</p> <p>18 that I would recommend in terms of testimony and</p> <p>19 witness presentation and that kind of thing or are</p> <p>20 you saying I just can't talk to this witness at all?</p> <p>21 I mean, if I -- I think if I don't talk to</p> <p>22 him about, you know, the substance of any evidence</p> <p>23 that has come in or go over documents and things</p> <p>24 like that, I should at least be able to talk to him</p> <p>25 about the rules of being a good witness and, you</p>
<p style="text-align: right;">Page 1276</p> <p>1 know, when to volunteer information and not</p> <p>2 volunteer information, and that type of thing. But</p> <p>3 I want to make sure that the Court is comfortable</p> <p>4 with that.</p> <p>5 THE COURT: I can say one thing and ask</p> <p>6 for any comments on the other side.</p> <p>7 The takeaway I got from reading all of the</p> <p>8 cases is there is a middle ground approach between</p> <p>9 you can talk anything but cross-examination on</p> <p>10 coaching; you can talk about nothing; and then the</p> <p>11 middle ground approach, which was useful really only</p> <p>12 with some of these heightened interest cases is, an</p> <p>13 instruction that someone can talk about general</p> <p>14 trial strategy and scheduling of other witnesses.</p> <p>15 And I don't know that that is the case</p> <p>16 with Schneider. I mean, it sounds like what you are</p> <p>17 wanting to talk with Schneider about is how he can</p> <p>18 be a good witness.</p> <p>19 MR. McKEEBY: Yes.</p> <p>20 THE COURT: And it is mild coaching,</p> <p>21 right? It is not here is how you should answer this</p> <p>22 question.</p> <p>23 MR. McKEEBY: Of course. Of course.</p> <p>24 THE COURT: But it is general decorum. So</p> <p>25 I'm not accusing you of anything unethical there.</p>	<p style="text-align: right;">Page 1277</p> <p>1 But I haven't seen anything that lets me carve that</p> <p>2 description out from the cases.</p> <p>3 Now, if I'm wrong and you find something</p> <p>4 concrete that gives me that, file something. I'm</p> <p>5 paying attention to the docket this weekend. I'm</p> <p>6 working like y'all are. So file something and we</p> <p>7 will take a look at it.</p> <p>8 Any comments from Carter?</p> <p>9 MR. PRYOR: One thing I do know is what</p> <p>10 the rule requires when you invoke the rule and what</p> <p>11 he discussed would violate the rule, in our view.</p> <p>12 THE COURT: Understood. Which is why I</p> <p>13 don't know authority that would let me, right?</p> <p>14 Perhaps there is a case that says, oh, that really</p> <p>15 doesn't violate 615. I understand that.</p> <p>16 There might always be a case out there,</p> <p>17 which I oftentimes dig for cases and don't just rely</p> <p>18 on the face of the rule. And this exercise is a</p> <p>19 great demonstration of that.</p> <p>20 Okay. So can y'all tell your client that</p> <p>21 I am now lifting the rule because it is a weekend.</p> <p>22 She's a civil party litigant with a heightened</p> <p>23 interest under the Seventh Amendment that means when</p> <p>24 I get as far as a weekend, right? Where we are even</p> <p>25 beyond the Geders 17 hours, I feel I'm outside of my</p>

<p style="text-align: right;">Page 1278</p> <p>1 authority, if I ask her to not talk about the case. 2 But there is a right to cross-examination. Exactly 3 how far that will go, we will find out on Monday. 4 MR. PRYOR: Okay. We will do that. 5 THE COURT: Other issues, you've got a 6 depo to get to in two and a half hours. I hope. 7 Can there be some sort of notice, even if 8 just by email, if the depo actually happens? 9 MR. PRYOR: Yes. 10 MR. HILL: To Kevin? 11 THE COURT: Kevin and Savannah. 12 Right. So I guess -- so it would be on 13 Sunday, then, that we have 6 p.m. disclosures of 14 what is going to happen the next day and 8 p.m. 15 response. 16 But I understand baton handoff will happen 17 Monday. So I guess the question is, then Sunday, at 18 6 p.m. y'all need to disclose who y'all would call, 19 right? Because it will be a day of evidence for one 20 of you. 21 So I guess arm wrestle and figure out 22 which one of you wants to present a case first. 23 Again, I don't have any problems if y'all 24 intermingle and you take turns presenting a witness. 25 That is fine by me.</p>	<p style="text-align: right;">Page 1279</p> <p>1 But if y'all are going to time on Monday, 2 we need some disclosures Sunday night on what y'all 3 expect to get to on Monday. But I won't baby-sit 4 y'all and say who has to go first. 5 Okay. Anything else? I gave a 24-hour 6 extension on briefing to me on protected activity in 7 the jury charge. 8 And then we talked about Monday at 8, we 9 will show up. I know that hurts, but if you file 10 anything on jury charge that persuades, obviously I 11 need that by Sunday at five, so I can read it. 12 MR. HILL: Will they let us up the 13 elevator? 14 THE COURT: I certainly hope so. I don't 15 think there is much line of security at 8:00. 16 Other questions? 17 Okay. We will see y'all Monday morning at 18 8:00 and see you through filings and emails before 19 then. 20 Thanks, y'all. 21 THE COURT SECURITY OFFICER: All rise. 22 (Proceedings concluded at 5:34 p.m.) 23 24 25</p>
<p style="text-align: right;">Page 1280</p> <p>1 C E R T I F I C A T E 2 3 I, Kelli Ann Willis, RPR, CRR, CSR 4 certify that the foregoing is a transcript from the 5 record of the proceedings in the foregoing entitled 6 matter. 7 I further certify that the transcript 8 fees format comply with those prescribed by the 9 Court and the Judicial Conference of the United 10 States. 11 This 9th day of July 2022. 12  13 s/ Kelli Ann Willis 14 Official Court Reporters 15 Northern District of Texas 16 Dallas Division 17 18 19 20 21 22 23 24 25</p>	

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1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF TEXAS

3 CASE NO. 3:17-cv-02278-X
4

5 -----x
6 CHARLENE CARTER,

7 Plaintiff,

8 v.

9 SOUTHWEST AIRLINES CO. and
10 TRANSPORT WORKERS OF AMERICA,
LOCAL 566,

11 Defendants.
12

13 -----x
14
15
16 TRANSCRIPT OF THE TRIAL
17 BEFORE THE HONORABLE BRANTLEY STARR
18 UNITED STATES DISTRICT JUDGE
19

20 V O L U M E 5
21

22 Dallas, Texas

23 July 11, 2022

24 9:02 a.m.
25

<p style="text-align: right;">Page 1282</p> <p>1 A P P E A R A N C E S:</p> <p>2</p> <p>3 FOR THE PLAINTIFFS:</p> <p>4 NATIONAL RIGHT TO WORK FOUNDATION INC.</p> <p>5 8001 Braddock Street</p> <p>6 Suite 600</p> <p>7 Springfield, Virginia 22160</p> <p>8 BY: MATTHEW B. GILLIAM, ESQ.</p> <p>9 mgb@nrtw.org</p> <p>10</p> <p>11 PRYOR & BRUCE</p> <p>12 302 North San Jacinto</p> <p>13 Rockwall, Texas 75087</p> <p>14 BY: BOBBY G. PRYOR, ESQ.</p> <p>15 MATTHEW D. HILL, ESQ.</p> <p>16 bpryor@pryorandbruce.com</p> <p>17 mhill@pryorandbruce.com</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 1283</p> <p>1 For the Defendant Union 566:</p> <p>2</p> <p>3 CLOUTMAN & GREENFIELD, PLLC</p> <p>4 3301 Elm Street</p> <p>5 Dallas, TX 75226</p> <p>6 BY: ADAM S. GREENFIELD, ESQ.</p> <p>7 EDWARD B. CLOUTMAN, III, ESQ.</p> <p>8 agreenfield@candglegal.com</p> <p>9 crawfish11@prodigy.net</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 1284</p> <p>1 COURT REPORTER: MS. KELLI ANN WILLIS, RPR, CRR, CSR</p> <p>2 United States Court Reporter</p> <p>3 1100 Commerce Street</p> <p>4 Room 1528</p> <p>5 Dallas, Texas 75242</p> <p>6 livenotecrr@gmail.com</p> <p>7</p> <p>8 Proceedings reported by mechanical</p> <p>9 stenography and transcript produced by computer.</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 1285</p> <p>1 I N D E X</p> <p>2 Informal Charge Conference (off the record)</p> <p>3</p> <p>4 W I T N E S S E S</p> <p>5 CHARLENE CARTER</p> <p>6 Cont. Direct Examination by Mr. Pryor 1288</p> <p>7 Cross-Examination by Mr. McKeeby 1307</p> <p>8 Cross-Examination by Mr. Greenfield 1405</p> <p>9</p> <p>10 BRETT NEVARES</p> <p>11 Via Zoom deposition 1481</p> <p>12</p> <p>13 MAUREEN EMLET</p> <p>14 Direct Examination by Mr. McKeeby 1511</p> <p>15 Cross-Examination by Mr. Greenfield 1551</p> <p>16</p> <p>17 NAOMI HUDSON</p> <p>18 Direct Examination by Mr. McKeeby 1558</p> <p>19 Cross-Examination by Mr. Greenfield 1571</p> <p>20</p> <p>21 ED SCHNEIDER</p> <p>22 Direct Examination by Mr. McKeeby 1573</p> <p>23 Cross-Examination by Mr. Greenfield 1607</p> <p>24</p> <p>25</p>

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<p>1</p> <p>2 EXHIBITS</p> <p>3</p> <p>4 Trial Exhibit 38 1295</p> <p>5 Trial Exhibit 130 1301</p> <p>6 Trial Exhibit 42 1301</p> <p>7 Trial Exhibit 126 1306</p> <p>8 Trial Exhibit 127 1306</p> <p>9 Trial Exhibit 128 1306</p> <p>10 Trial Exhibit 129 1306</p> <p>11 Trial Exhibit 118 1313</p> <p>12 Trial Exhibit 40 1327</p> <p>13 Trial Exhibit 2 1392</p> <p>14 Trial Exhibit 83 1516</p> <p>15 Trial Exhibit 44 1524</p> <p>16 Trial Exhibit 11 1533</p> <p>17 Trial Exhibit 7 1536</p> <p>18 Trial Exhibit 9 1543</p> <p>19 Trial Exhibit 16 1546</p> <p>20 Trial Exhibit 103 1592</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 - PROCEEDINGS -</p> <p>2 (Informal charge conference off the</p> <p>3 record.)</p> <p>4 THE COURT: You can be seated. Except for</p> <p>5 you, Mr. Pryor, you've got nowhere to sit.</p> <p>6 Okay. So now we are on the record. We</p> <p>7 are in Day 5 of trial. Let's do lightning round of</p> <p>8 appearances right quick just to start off the day.</p> <p>9 MR. GILLIAM: Bobby Pryor, Matt Gilliam,</p> <p>10 and Matt Hill for Plaintiff Charlene Carter.</p> <p>11 THE COURT: Thank you.</p> <p>12 MR. McKEEBY: Paulo McKeeby and Brian</p> <p>13 Morris for Defendant Southwest Airlines.</p> <p>14 THE COURT: Thank you.</p> <p>15 MR. GREENFIELD: Adam Greenfield and</p> <p>16 Edward Cloutman III on behalf of TW Local 566. We</p> <p>17 also have our corporate representative, Michael</p> <p>18 Massoni, at the table.</p> <p>19 THE COURT: Thank you.</p> <p>20 So, now, in our off-the-record informal</p> <p>21 charge conference, Mr. Greenfield, you raised the</p> <p>22 issue of a request for leave to add an affirmative</p> <p>23 defense. Can you make that request on the record</p> <p>24 for us?</p> <p>25 MR. GREENFIELD: Yes, your Honor.</p>
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<p>1 We make a request to add in an affirmative</p> <p>2 defense on the issue of undue hardship on behalf of</p> <p>3 the Union pertaining to religious accommodation</p> <p>4 rights.</p> <p>5 We believe there is no undue prejudice</p> <p>6 caused by adding in this affirmative defense. In</p> <p>7 fact, discovery has been ongoing throughout the</p> <p>8 trial, and we believe, thus, adding an affirmative</p> <p>9 defense causes no prejudice at this point.</p> <p>10 THE COURT: Understood.</p> <p>11 So I will say that out of consistency,</p> <p>12 since I did not allow a late amendment to seek</p> <p>13 punitive damages under the RLA claim from the</p> <p>14 plaintiff, then out of consistency I will overrule</p> <p>15 your request for this affirmative defense.</p> <p>16 With that, we can bring in the jury.</p> <p>17 THE COURT SECURITY OFFICER: All rise for</p> <p>18 the jury.</p> <p>19 (The jurors entered the courtroom.)</p> <p>20 THE COURT: Thank you. You can be seated.</p> <p>21 Okay. Mr. Pryor, you can continue to</p> <p>22 question the witness.</p> <p>23 DIRECT EXAMINATION (continued)</p> <p>24 BY MR. PRYOR:</p> <p>25 Q. Good morning, ladies and gentlemen.</p>	<p>1 Good morning, Ms. Carter.</p> <p>2 A. Good morning.</p> <p>3 Q. Ms. Carter, when we spoke last on Friday, you</p> <p>4 had received a call from Mr. Schneider informing you</p> <p>5 that you were terminated.</p> <p>6 Do you recall that?</p> <p>7 A. Yes, I do.</p> <p>8 Q. I want to back up to the fact-finding meeting</p> <p>9 that has been talked about in this matter where the</p> <p>10 claims against you were investigated by Southwest</p> <p>11 Airlines.</p> <p>12 Do you recall that?</p> <p>13 A. Yes, I do.</p> <p>14 Q. In the fact-finding meeting, did you inform</p> <p>15 Southwest Airlines of your religious beliefs?</p> <p>16 A. I did. I told them I was a Christian.</p> <p>17 Q. Did you tell them how that related to you</p> <p>18 sending the videos and the communications that you</p> <p>19 did?</p> <p>20 A. Yes, I did.</p> <p>21 Q. Did you tell them it was related?</p> <p>22 A. Yes, I did. I told them that the reason -- I</p> <p>23 mean, it was just because the Union spent the money,</p> <p>24 but also because of my religious beliefs.</p> <p>25 Q. Did you tell them about your communications in</p>

<p style="text-align: right;">Page 1290</p> <p>1 regard to union activity?</p> <p>2 A. Yes, I did.</p> <p>3 Q. What did you tell them?</p> <p>4 A. Well, I told them that everything that I had</p> <p>5 sent was only to my union president and after what</p> <p>6 they had done and gone to the Women's March.</p> <p>7 Q. And they've talked about some Facebook posts as</p> <p>8 a nexus.</p> <p>9 With the exception of the lanyard, which the</p> <p>10 jury can decide if that can be read or not, but with</p> <p>11 the exception of that, were there any Facebook posts</p> <p>12 even within 18 months that remotely mentioned</p> <p>13 Southwest Airlines?</p> <p>14 A. No. And the thing is, is they had to go in and</p> <p>15 search my pictures. They're not even posts -- I</p> <p>16 mean, you would have to search forever.</p> <p>17 But they actually went in and searched my</p> <p>18 pictures to find a nexus.</p> <p>19 Q. Were these pictures more than three years old?</p> <p>20 A. Yes, they were.</p> <p>21 Q. Were some more than five years old?</p> <p>22 A. I believe four, going into five, yes.</p> <p>23 Q. At any time did Southwest Airlines offer to</p> <p>24 accommodate your union activity or religious</p> <p>25 beliefs?</p>	<p style="text-align: right;">Page 1291</p> <p>1 A. No.</p> <p>2 Q. At any time did they, for instance, offer, if</p> <p>3 you will take off these nexus posts on Facebook</p> <p>4 regarding Southwest, then you can post regarding</p> <p>5 your religious beliefs?</p> <p>6 MR. McKEEBY: Object to leading.</p> <p>7 THE COURT: I'll allow it.</p> <p>8 THE WITNESS: No.</p> <p>9 BY MR. PRYOR:</p> <p>10 Q. At any time did they offer you any</p> <p>11 accommodation regarding your union activity?</p> <p>12 A. No. As a matter of fact, they just called her</p> <p>13 a flight attendant. They never even said her name.</p> <p>14 I knew who I sent them to, and it was only one</p> <p>15 person.</p> <p>16 Q. By the way, the communications that you engaged</p> <p>17 in with your union and your union president and your</p> <p>18 post on your Facebook page, did you do those at the</p> <p>19 workplace?</p> <p>20 A. No.</p> <p>21 Q. Did you send them to anyone at their workplace?</p> <p>22 A. No, I did not.</p> <p>23 Q. Counsel in opening, I think one of the</p> <p>24 questions was about that you think you can just say</p> <p>25 whatever you want.</p>
<p style="text-align: right;">Page 1292</p> <p>1 Are you asking this jury to allow you to engage</p> <p>2 in illegal speech?</p> <p>3 A. No, not in illegal speech, no.</p> <p>4 Q. So you recognize limitations?</p> <p>5 A. Yes.</p> <p>6 Q. As a matter of fact, you recognize limitations</p> <p>7 had you been communicating in the workplace as</p> <p>8 opposed to not?</p> <p>9 MR. McKEEBY: Objection, leading.</p> <p>10 THE COURT: Sustained.</p> <p>11 BY MR. PRYOR:</p> <p>12 Q. Do you have -- do you believe you should have</p> <p>13 unfettered rights in the workplace to engage in</p> <p>14 certain speech?</p> <p>15 A. In the workplace, there are certain things</p> <p>16 that, you know -- I mean, I don't go around harming</p> <p>17 people at the workplace. I never have.</p> <p>18 Q. Ma'am, there is -- we've got a continuing</p> <p>19 objection on this in responding to the questions</p> <p>20 raised about that you were offered your job back.</p> <p>21 Do you recall --</p> <p>22 A. Yes.</p> <p>23 Q. -- in opening, questions of Mr. Schneider?</p> <p>24 A. Yes.</p> <p>25 Q. Were you offered your job back in a manner in</p>	<p style="text-align: right;">Page 1293</p> <p>1 which you could engage in free speech and religious</p> <p>2 speech on your Facebook?</p> <p>3 A. No. And then -- so let me back up.</p> <p>4 They said they were going to reduce it in time</p> <p>5 served for 30 days, or a 30-day suspension.</p> <p>6 They also gave me what is called a last-chance</p> <p>7 agreement. And that last-chance agreement, first of</p> <p>8 all, would put a bad letter, which, you know, I was</p> <p>9 a good employee. But they were going to put a bad</p> <p>10 letter in my file for 24 months, which exceeded,</p> <p>11 even in our contract, which was 18 months.</p> <p>12 They also wanted me to sign an NDA,</p> <p>13 non-disclosure, for the Union and for the company,</p> <p>14 and they also wanted to strip my rights away if I</p> <p>15 ever had any other issues to sue them, the company,</p> <p>16 and the Union.</p> <p>17 So what they really wanted me to do is just</p> <p>18 stay quiet.</p> <p>19 And now looking back, when I was called in on</p> <p>20 that day -- and I'm so thankful I didn't sign it --</p> <p>21 because Brian Talburt was already turning others in.</p> <p>22 My name was on that list.</p> <p>23 So I know of another employee that they did</p> <p>24 this to, and she was about to go back out on line,</p> <p>25 and they --</p>

<p style="text-align: right;">Page 1294</p> <p>1 MR. McKEEBY: Objection, foundation. 2 She's talking about another employee. I 3 don't know how she knows -- 4 MR. PRYOR: It's her understanding. 5 THE COURT: Sustained. She can clarify. 6 BY MR. PRYOR: 7 Q. Okay. Go ahead. You can finish. 8 A. Okay. So -- 9 MR. McKEEBY: No. I mean, there needs to 10 be a foundation laid as to how she knows about this 11 other employee. 12 THE WITNESS: She's a friend. 13 THE COURT: I will let you ask the 14 foundation question. 15 BY MR. PRYOR: 16 Q. Okay. I've got limited time here. 17 Where did this understanding come from that you 18 have regarding how this last-chance agreement would 19 be dealt with? Did you have a union rep? 20 A. I did. 21 Q. And what were you told? 22 A. She basically said it would be like a death 23 sentence if I signed it again, or if I signed it. 24 Q. Not only that, you weren't willing to give up 25 your rights to engage in union complaints and</p>	<p style="text-align: right;">Page 1295</p> <p>1 freedom of religion? 2 A. Correct. 3 MR. PRYOR: Move for the admission of 4 Exhibit 38. 5 THE COURT: 38. Any objection to 38? 6 MR. McKEEBY: No objection from Southwest. 7 MR. GREENFIELD: One moment, your Honor. 8 No objection, your Honor. 9 THE COURT: Okay. 38 is in. We will 10 publish. 11 (The referred-to document was admitted 12 into evidence as Trial Exhibit 38.) 13 MR. PRYOR: I ask to publish it to the 14 jury, your Honor. 15 THE COURT: It is published. 16 MR. PRYOR: Okay. Thank you. 17 BY MR. PRYOR: 18 Q. Ma'am, let me ask you a little bit about your 19 damage claim. 20 A. Okay. 21 Q. I think you were crying on your floor with your 22 husband praying when you found out you had been 23 terminated. 24 MR. McKEEBY: Objection, leading. 25 MR. PRYOR: I'm laying the predicate for</p>
<p style="text-align: right;">Page 1296</p> <p>1 where we left off. 2 THE COURT: You can do it. 3 BY MR. PRYOR: 4 Q. Is that where we were? 5 A. Yes, that is correct. 6 Q. And again, I have limited time, but that point 7 in 2017 to now, has that caused stress in your life? 8 A. It has caused so much stress in my life, but 9 what really gets me is my daughter. 10 Q. And the impact on your family has an impact on 11 you? 12 A. Correct. 13 Q. Okay. What is a walking stroke? 14 A. So that's when you don't have -- my blood 15 pressure was spiking so high and it was going -- I 16 can't even explain it. But I wasn't getting enough 17 oxygen to my brain even though I was -- I didn't 18 pass out. 19 But I had -- my doctor called it I was in a 20 fight-and-flight response in a constant manner. I 21 wasn't eating, I wasn't sleeping. 22 I mean, my job meant everything to me. It was 23 my career. It was the way I provided for my family 24 along with my husband. And on top of that, I loved 25 my job.</p>	<p style="text-align: right;">Page 1297</p> <p>1 But I ended up in the hospital. I was on 2 another -- I had another venture, which I knew I had 3 to do after I lost my job. And I ended up in the 4 emergency room. I have six hours that I cannot 5 recall, and I thought I had been drugged. 6 So I was able -- my husband told me, he said, 7 "You've got to get to the hospital. You are not 8 talking" -- I was on the phone with him. I was in 9 St. Louis, Missouri. 10 This was between the time that I had my job 11 taken away from me and my second step meeting, and I 12 was preparing for all of that as well. 13 I went to dinner with a business partner, and 14 he said I just keep repeating, repeating, repeating, 15 repeating everything that I was saying, and he 16 thought it was really odd. 17 But I drove myself back to the -- I don't even 18 remember driving back to the hotel. 19 So I got to the hospital. They drug tested me. 20 They did an MRI. But he just said it's -- 21 MR. McKEEBY: Objection, hearsay. 22 MR. PRYOR: It's her understanding, your 23 Honor. 24 THE COURT: I'll allow it. 25 THE WITNESS: He said it was due to the</p>

<p style="text-align: right;">Page 1298</p> <p>1 fact that I had so much stress in the 2 fight-and-flight response that it caused my blood 3 pressure to rise to an extreme level, and my heart 4 was doing racing and then stopping and then racing 5 and stopping. It was just constant. 6 And physiology in your body, it changes 7 you. I was later diagnosed just by, from my 8 counselor, because I had to go to some counseling 9 for this, with a mild case of PTSD. 10 BY MR. PRYOR: 11 Q. Posttraumatic stress disorder associated with 12 losing your job? 13 A. Yeah. After 20 years -- 14 MR. McKEEBY: Objection, leading, and it 15 also is asking the witness to render essentially an 16 expert opinion as to the causation of this PTSD. 17 THE COURT: Sidebar. 18 (Thereupon, the following proceedings were 19 had at sidebar:) 20 THE COURT: Now state your objection. 21 MR. McKEEBY: My objection is that he's 22 asking her to link her PTSD to her employment. That 23 is something that an expert can do, but she is a lay 24 witness and she can't do that. 25 And moreover, it's hearsay, because she's</p>	<p style="text-align: right;">Page 1299</p> <p>1 talking about what a doctor told her about that 2 issue. 3 So it should be excluded on both of those 4 grounds, particularly the first. 5 MR. GREENFIELD: I would like to add in 6 also a hearsay objection that she's saying these 7 things as if they are true, but not -- not any sort 8 of mental impression or how she acted or actions she 9 took because of the information. 10 MR. PRYOR: PTSD, I simply defined what 11 the term meant. The other is her understanding of 12 her condition and what caused it. 13 It's totally appropriate. If they want to 14 cross-examine her, they can. 15 THE COURT: I think it is offered for its 16 truth is the problem. So right now we are on to 17 damages, so it's a prove-up on damages. So I will 18 strike that. 19 MR. PRYOR: Okay. 20 (Thereupon, the sidebar was concluded and 21 the following proceedings were held in open 22 court:) 23 THE COURT: Okay. So I am sustaining that 24 objection, striking that last question and answer. 25</p>
<p style="text-align: right;">Page 1300</p> <p>1 BY MR. PRYOR: 2 Q. Did you understand that your condition was 3 stress-related? 4 A. Yes. 5 Q. Did you ever have a walking stroke before being 6 terminated by Southwest Airlines? 7 A. No. I never knew what it was. 8 Q. Did you -- did anyone ever tell you that you 9 had posttraumatic stress disorder until you were 10 terminated from American Airlines -- Southwest 11 Airlines? 12 A. No. 13 Q. And did you have to go on medication? 14 A. I did. Blood pressure. 15 Q. Blood pressure medication? 16 Okay. Now, you talked about the impact on your 17 family, your daughter, your own health. 18 Is there any amount of money we could offer you 19 to risk your life for this? If we said, Hey, we 20 will give you this money to go through this again? 21 A. No, not at all. 22 Q. If I offered you a million bucks, you would 23 take it? 24 A. To go through this again? 25 Q. Yes.</p>	<p style="text-align: right;">Page 1301</p> <p>1 A. No. 2 Q. Let me ask about, did you try and get a job 3 while -- after you got fired? 4 A. I did, but I was also working on a business 5 venture as well. So I applied to Jet Blue, Delta, 6 and United. I had an interview with United. And 7 they turned me down. And then Delta never sent me 8 the link for the online video, and we still to this 9 day don't know why that happened. 10 Q. Did you apply with Frontier as well? 11 A. I did. 12 Q. Let me show you Exhibits -- 13 MR. PRYOR: We move for the admission of 14 Exhibit 130 and Exhibit 42. 15 THE COURT: 130 and 42. Any objections to 16 130 or 42? 17 MR. GREENFIELD: None from the Union, your 18 Honor. 19 MR. McKEEBY: No objection. 20 THE COURT: Okay. They are admitted into 21 evidence and we are publishing. 22 (The referred-to documents were admitted 23 into evidence as Trial Exhibits 130 and 42.) 24 BY MR. PRYOR: 25 Q. Ma'am, is Exhibit 130 a copy of your W-2?</p>

<p style="text-align: right;">Page 1302</p> <p>1 MR. PRYOR: It looks like 2012. I'm not 2 sure how far it's going to go. Keep scrolling. 3 THE WITNESS: Yes, those are my W-2s. 4 MR. PRYOR: And is that 130? 5 MR. HILL: 130, yes, sir. 6 MR. PRYOR: Then let's look at 42. There 7 it is. 8 BY MR. PRYOR: 9 Q. There's some additional years of W-2 and 10 earning summaries? 11 A. Yes. 12 Q. Now, a couple of years before you were 13 terminated, you didn't fly as much as you usually 14 did, true? 15 A. True. 16 Q. Can you explain to us why? 17 A. When we moved to Denver, my husband had -- he 18 had been sober for six years, and when we moved to 19 Denver, I started flying more. And I was going to 20 fly more because my daughter was a little bit older. 21 But as soon as we got there, the drinking started 22 again pretty heavily. 23 One of my very first trips -- I actually was on 24 a trip with a friend of mine who is in the audience, 25 Kim Hensley -- and came back that night to my home</p>	<p style="text-align: right;">Page 1303</p> <p>1 being all lit up and both garage doors open and the 2 car door to his car in his garage open. 3 And I thought, Oh, my gosh. I mean, something 4 happened, okay? 5 I walked into the house, and the dog is 6 running -- I have a 120-pound bloodhound, and she's 7 just running all over the house. Lights are all on 8 in the house, the TV is blaring, and my husband is 9 drunk, just wasted, on the couch. 10 My daughter at that time was nine -- because 11 we've been in Denver now 10 years -- she was nine. 12 And I'm like, Where is -- where is Hannah? 13 Well, she's upstairs. 14 And that was the first time I knew I could not 15 leave Hannah alone at home with my husband while I 16 flew. 17 Q. Okay. And has that situation gotten to the 18 point that, in fact, you can fly? 19 MR. McKEEBY: Objection, leading. 20 THE COURT: I'll allow it. 21 THE WITNESS: It got to the point where, 22 no, I couldn't leave her, because it happened 23 several times. 24 BY MR. PRYOR: 25 Q. Now.</p>
<p style="text-align: right;">Page 1304</p> <p>1 A. Oh, now? 2 Q. Charlene, I just don't have time to go through 3 everything you went to. The jury -- 4 A. She's 19 and going off to college. 5 Q. Okay. So let me go back. Before you were 6 terminated, did you have every intention of both 7 working full-time and making Southwest Airlines your 8 career? 9 A. Yes. 10 Q. And you are able to work full-time? 11 A. Yes. 12 Q. You would like to do that? 13 A. Yes. 14 Q. When were you able to go back full-time? 15 A. When? 16 Q. Yes. 17 A. Tomorrow. 18 Q. I'm sorry? 19 A. I could go back tomorrow. 20 Q. Okay. Let me ask you about the Union's duty of 21 fair representation to you. 22 You liked Chris, the gentleman that was at the 23 fact-finding meeting, he's from the Union? 24 A. Yes. 25 Q. And do you think, however, though, that the</p>	<p style="text-align: right;">Page 1305</p> <p>1 Union reporting you to cause the fact-finding 2 meeting was a fair representation of you? 3 A. Yes. 4 Q. Do you think it was a fair representation of 5 them -- 6 A. No, no. 7 Q. -- to report you? 8 Listen to my question. Understand we are not 9 talking about Chris now, we are talking about the 10 report that was made. 11 Do you think that the Union was giving you fair 12 representation when they reported you? 13 A. No. 14 MR. PRYOR: Pass the witness. 15 Before I do that, I would like to offer 16 Exhibits 126, 127, 128 and 129. They are medical 17 bills and counseling bills. 18 THE COURT: So 126, 127, 128 and 129 is 19 what you are offering? 20 MR. PRYOR: Yes. 21 THE COURT: Okay. Any objection on those 22 exhibits? 23 MR. McKEEBY: No objection. 24 MR. GREENFIELD: No, your Honor. 25 THE COURT: Okay. So they are admitted.</p>

<p style="text-align: right;">Page 1306</p> <p>1 (The referred-to documents were admitted 2 into evidence as Trial Exhibits 126 through 3 129.) 4 THE COURT: Do you want to flash them 5 right quick for the jury? 6 BY MR. PRYOR: 7 Q. And while they are showing those, you went to 8 counseling, ma'am? 9 A. Yes, I did. 10 Q. Why did you go to counseling? 11 A. Well, because I was having struggles about 12 losing my job, and on top of that, now my husband 13 was drinking even more because of the marriage -- 14 you know, this caused so many issues with my 15 marriage and it caused so many issues especially 16 with my daughter. She had to see this and she had 17 to go through all of this. I lost five years with 18 her doing this. 19 Q. And the struggles that you had with your 20 husband when he was dealing with the drinking issue, 21 did the problems that you were dealing with from not 22 having your job and having been fired by Southwest 23 Airlines, did that make it better or worse? 24 A. Worse. 25 Q. All right. Thank, you ma'am.</p>	<p style="text-align: right;">Page 1307</p> <p>1 MR. PRYOR: Pass the witness. 2 THE COURT: Okay. Mr. McKeeby. 3 MR. McKEEBY: Thank you, Your Honor. 4 CROSS-EXAMINATION 5 BY MR. McKEEBY: 6 Q. Good morning, Ms. Stone -- Ms. Carter. 7 A. Good morning. 8 Q. Let's talk about the Step 2 hearing. When I 9 use that term, you know what I'm referring to? 10 A. I do. 11 Q. And that was -- at the time of the Step 2 12 hearing, I think we're talking about mid March of 13 2017, is that fair? 14 A. I believe so. It was March or April. I don't 15 remember when the second step was. It was a little 16 while. 17 Q. You know what, I don't remember either. We 18 might show you some documents. 19 Here is the question, though: At the time of 20 the Step 2 hearing, you had already received the 21 termination decision from Mr. Schneider? 22 A. Correct. 23 Q. And so the Step 2 hearing was an opportunity 24 for you essentially to appeal that decision, is that 25 fair?</p>
<p style="text-align: right;">Page 1308</p> <p>1 A. Correct. 2 MR. PRYOR: Object, limine, your Honor. 3 THE COURT: I'll allow it. 4 MR. PRYOR: And continuing objection. 5 THE COURT: I will allow that continuing 6 objection. 7 BY MR. McKEEBY: 8 Q. Describe for the jury what the Step 2 hearing 9 looked like. 10 A. Well, the Step 2 hearing looked like -- I had 11 Becky Parker, who was a representative for the Union 12 for grievances, and then I my liaison, Beth Ross, 13 with me. 14 It was Mike Sims across the table from me, and 15 then I can't remember who he had sitting there 16 taking notes. It may have been Edie Barnett. I 17 just don't remember. 18 Q. I've been calling it, and I think we have in 19 this case, a hearing. But you weren't under oath or 20 anything like that, were you? 21 A. No. 22 MR. PRYOR: Your Honor, can we approach? 23 THE COURT: You may. 24 (Thereupon, the following proceedings were 25 had at sidebar:)</p>	<p style="text-align: right;">Page 1309</p> <p>1 MR. PRYOR: Your Honor, the question he 2 asked was: You had a chance to appeal your 3 termination. That's the Step 2 process. 4 That's not the issues that are in front of 5 the jury today, and I think it's confusing to them. 6 I think it needs a limiting instruction to the jury 7 that Step 2 is not the issues we are about here 8 today. I would ask for that. 9 THE COURT: I understand. So I will let 10 you bring that up on redirect. 11 MR. PRYOR: She's not a lawyer, and I have 12 very limited time. Southwest has gotten about 30 13 limiting instructions from the Court. 14 THE COURT: I think you asked earlier a 15 question of her that she answered, which was: Did 16 they consider your religious claims or your union 17 speech claims? I think she can answer that again 18 with one sentence. 19 Now, do I need to put it in the jury 20 charge? That's another question. 21 MR. PRYOR: I think the jury needs it in 22 context, but I appreciate it. You're overruling my 23 request? 24 THE COURT: I am. 25 MR. PRYOR: Thank you, your Honor.</p>

<p style="text-align: right;">Page 1310</p> <p>1 (Thereupon, the sidebar was concluded and 2 the following proceedings were held in open 3 court:) 4 THE COURT: You can proceed. 5 BY MR. McKEEBY: 6 Q. Did you have any -- you mentioned the name Mike 7 Sims. Had you met Mr. Sims before the Step 2 8 hearing? 9 A. Yes, I know Mike Sims from years ago. 10 Q. What do you think of him? 11 A. He's a nice guy. He used to work for the 12 Union. He actually was a flight attendant. 13 Q. And you would agree with me that he was fair to 14 you during the hearing, was he not? 15 A. They all were fair to me. 16 Q. And he gave you the chance during the Step 2 17 hearing for you to tell your side of the story? 18 A. Correct. 19 Q. I mean, do you remember in your deposition you 20 made the statement that Mr. Sims was amazing? 21 A. I mean, he listened to me. I had a huge case 22 that I put in front of him. 23 Q. And part of that case involved you presenting 24 documents to Mr. Sims, correct? 25 A. That is correct.</p>	<p style="text-align: right;">Page 1311</p> <p>1 Q. And there were quite a number of documents that 2 you submitted to him at the beginning of the 3 hearing, correct? 4 A. Yes, because I had to make my case. 5 Q. You had to make your case. 6 A. Uh-huh. 7 Q. Because you wanted your job back, correct? 8 A. Yes. 9 Q. That was your goal at the Step 2 hearing was to 10 get your job back? 11 A. Yes, sir. 12 Q. And you came prepared with a packet of 13 documents that the Union assisted you in compiling, 14 fair? 15 A. No, the Union didn't do any of that work. I 16 did it all on my own. 17 Q. Did it all on your own. Fair enough. 18 MR. McKEEBY: I would like to bring up 19 Exhibit 118. 20 This is the first page. Let's go to the 21 next page. 22 MR. PRYOR: Is this in evidence? 23 THE COURT: This is muted from the jury. 24 So just raising it with the witness for now. 25</p>
<p style="text-align: right;">Page 1312</p> <p>1 BY MR. McKEEBY: 2 Q. Does this look like at least the first part of 3 the packet? 4 MR. PRYOR: Object to improper use of a 5 document that's not in evidence. He's not asking to 6 refresh her recollection. 7 MR. McKEEBY: I've got to establish -- 8 THE COURT: You can set the predicate. 9 BY MR. McKEEBY: 10 Q. Does this look like the packet of documents 11 that you provided to Mr. Sims at the Step 2 hearing? 12 A. It is, but it says "Audrey Stone" on it. 13 Before it said "Audrey Stone, TWU." 14 Q. Okay. If I told you that this packet of 15 documents was -- hold on -- 148 pages, would you 16 agree? 17 A. I don't know how many pages it was. 18 Q. I'm not going to make you count them. It will 19 be into evidence, and the jury can do so if it 20 chooses. 21 But I think you did tell me that you and 22 Mr. Sims, at the Step 2 hearing, went through page 23 by page of these documents that you had assembled, 24 correct? 25 A. It wasn't page by page, but it was -- I had</p>	<p style="text-align: right;">Page 1313</p> <p>1 them clipped together and I presented that 2 information to him. Because there were several 3 things that were in each of those packets. And I 4 was able to explain what was in those packets, and 5 he said that he would take a further review of that 6 after our meeting. 7 Q. Let's go through a few of those things. 8 MR. McKEEBY: But before I do, I move to 9 admit 118. 10 THE COURT: Objections from -- well, last 11 night, I should say? 12 MR. PRYOR: Your Honor, we object on 13 foundation, hearsay, and our continuing objection 14 under Step 2 and undue prejudice regarding the 15 characterization of this. 16 THE COURT: Understood. 17 I will overrule those objections and admit 18 118. We can publish to the jury. 19 (The referred-to document was admitted 20 into evidence as Trial Exhibit 118.) 21 BY MR. McKEEBY: 22 Q. Let's move to page 118.10. I just want to ask 23 you about a few of these that I don't think we've 24 talked about before, and just if you can tell me 25 what they are.</p>

<p style="text-align: right;">Page 1314</p> <p>1 MR. McKEEBY: So 118.110 would be the one</p> <p>2 I would want you to pull up first.</p> <p>3 BY MR. McKEEBY:</p> <p>4 Q. What is this about?</p> <p>5 First of all, this is an email from you to</p> <p>6 someone named Jim Little?</p> <p>7 A. Yes. Jim Little was our executive -- well, he</p> <p>8 used to be our liaison, and I dealt with him during</p> <p>9 Melissa Smith's trial. Jim Little ended up being</p> <p>10 the international president of TWU.</p> <p>11 Q. So he's someone who is above the Local 556</p> <p>12 level, the defendants in this case, correct?</p> <p>13 A. That is correct.</p> <p>14 Q. So in this case, you are reaching out to him</p> <p>15 about a complaint that you have regarding someone by</p> <p>16 the name of Don Shipman?</p> <p>17 A. Yes. This is back in 2013 when everything</p> <p>18 started to fall apart with our union.</p> <p>19 Q. I understand. We have been looking at some old</p> <p>20 documents during this case.</p> <p>21 MR. McKEEBY: Why don't we go to 118-112.</p> <p>22 BY MR. McKEEBY:</p> <p>23 Q. It looks like another complaint to the</p> <p>24 international, Mr. Little, about Don Shipman, is</p> <p>25 that fair?</p>	<p style="text-align: right;">Page 1315</p> <p>1 A. That is correct.</p> <p>2 MR. McKEEBY: How about 118-116.</p> <p>3 BY MR. McKEEBY:</p> <p>4 Q. Just take a second to look that. It looks like</p> <p>5 another email from you to Mr. Little of the</p> <p>6 international?</p> <p>7 A. Yes. It's because they came in and removed our</p> <p>8 elected officials again.</p> <p>9 Q. So here you are complaining again to the</p> <p>10 international union, correct?</p> <p>11 A. Correct.</p> <p>12 MR. McKEEBY: Okay. We can take that</p> <p>13 down.</p> <p>14 BY MR. McKEEBY:</p> <p>15 Q. During the Step 2 meeting with Mr. Sims -- by</p> <p>16 the way, Mr. Sims hasn't appeared before the jury in</p> <p>17 this case yet, has he?</p> <p>18 A. He had a deposition, but not in here.</p> <p>19 Q. During the Step 2 hearing, you told Mr. Sims</p> <p>20 that you loved your job.</p> <p>21 A. I still do.</p> <p>22 Q. And you told him that?</p> <p>23 A. Yes.</p> <p>24 Q. And you told him that you loved Southwest,</p> <p>25 didn't you?</p>
<p style="text-align: right;">Page 1316</p> <p>1 A. Yes. I love the company that I started out</p> <p>2 with, yes.</p> <p>3 Q. And your objective at that Step 2 hearing was</p> <p>4 to get your job back?</p> <p>5 MR. PRYOR: Object, asked and answered.</p> <p>6 MR. McKEEBY: You can answer.</p> <p>7 Or wait. I'm sorry.</p> <p>8 THE COURT: I'll allow it.</p> <p>9 THE WITNESS: Yes.</p> <p>10 BY MR. McKEEBY:</p> <p>11 Q. And you told him that, didn't you?</p> <p>12 A. Told him --</p> <p>13 MR. PRYOR: Object, asked and answered.</p> <p>14 BY MR. McKEEBY:</p> <p>15 Q. Told Mr. Sims that?</p> <p>16 THE COURT: I'll allow it.</p> <p>17 MR. PRYOR: Object, asked and answered.</p> <p>18 THE WITNESS: That I wanted my job?</p> <p>19 BY MR. McKEEBY:</p> <p>20 Q. Yes.</p> <p>21 A. Yes.</p> <p>22 Q. You also told him during the Step 2 hearing</p> <p>23 that you could have made a better choice regarding</p> <p>24 Audrey?</p> <p>25 A. Yes, I could. I could have taken those into</p>	<p style="text-align: right;">Page 1317</p> <p>1 her office and talked to her. Although she doesn't</p> <p>2 respond to us, she never took my calls. I mean, she</p> <p>3 was pretty non-responsive as a union president.</p> <p>4 Q. I understand all of that.</p> <p>5 But you didn't say all of that to Mr. Sims.</p> <p>6 What you told Mr. Sims is, I could have made a</p> <p>7 better choice regarding Audrey?</p> <p>8 MR. PRYOR: Object, improper use of</p> <p>9 whatever he's referring to, he has to show her.</p> <p>10 THE COURT: No speaking. You can ask for</p> <p>11 a sidebar if you want to.</p> <p>12 MR. PRYOR: No.</p> <p>13 MR. McKEEBY: I will tell you what. I</p> <p>14 will do exactly what counsel suggests. Let me go</p> <p>15 ahead and pull up but don't introduce Exhibit 119.</p> <p>16 MR. PRYOR: It's not for -- object to, if</p> <p>17 he's offering it.</p> <p>18 You can show the witness --</p> <p>19 MR. McKEEBY: I am going to show the</p> <p>20 witness.</p> <p>21 MR. PRYOR: He can make faces if he wants</p> <p>22 to.</p> <p>23 THE COURT: Hold on, Counsel.</p> <p>24 Okay. You can set the predicate with the</p> <p>25 witness.</p>

<p style="text-align: right;">Page 1318</p> <p>1 MR. McKEEBY: I'm headed this way, but --</p> <p>2 THE COURT: You can set the predicate with</p> <p>3 the witness.</p> <p>4 MR. McKEEBY: Okay. I'm sorry.</p> <p>5 MR. PRYOR: I'm simply asking the witness</p> <p>6 be treated fairly.</p> <p>7 MR. McKEEBY: I'm going try to treat --</p> <p>8 THE COURT: You can ask the predicate to</p> <p>9 the witness.</p> <p>10 MR. McKEEBY: Incredible to hear that</p> <p>11 coming from Mr. Pryor.</p> <p>12 But I will move on and ask that the</p> <p>13 witness look at page 119-point -- hold on -- 15.</p> <p>14 BY MR. McKEEBY:</p> <p>15 Q. I will represent to you that these are the</p> <p>16 notes from the Step 2 hearing, and I understand that</p> <p>17 you haven't seen these before.</p> <p>18 But at the very bottom, it says, "I could have</p> <p>19 made" --</p> <p>20 MR. PRYOR: Object, improper use of a</p> <p>21 document not in evidence. Improper impeachment. He</p> <p>22 hasn't established an inconsistency or allowed her</p> <p>23 to comment on it.</p> <p>24 THE COURT: Sustained.</p> <p>25 MR. McKEEBY: She said she wasn't sure</p>	<p style="text-align: right;">Page 1319</p> <p>1 that she remembered that.</p> <p>2 THE COURT: Sidebar.</p> <p>3 (Thereupon, the following proceedings were</p> <p>4 had at sidebar:)</p> <p>5 MR. McKEEBY: I think that is an</p> <p>6 inconsistency.</p> <p>7 THE COURT: She couldn't remember what?</p> <p>8 MR. McKEEBY: She couldn't remember if she</p> <p>9 said, "I should have made a better choice regarding</p> <p>10 Audrey."</p> <p>11 MR. PRYOR: She absolutely said she could</p> <p>12 make a better choice.</p> <p>13 THE COURT: I thought she admitted that</p> <p>14 she could have by talking in person.</p> <p>15 MR. PRYOR: Yes. So how is -- and this is</p> <p>16 someone else's notes.</p> <p>17 (Thereupon, the sidebar was concluded and</p> <p>18 the following proceedings were held in open</p> <p>19 court:)</p> <p>20 THE COURT: All right. I will sustain</p> <p>21 that. You can ask a new question.</p> <p>22 BY MR. McKEEBY:</p> <p>23 Q. Did you also tell Mr. Sims during the Step 2</p> <p>24 hearing that this has nothing to do with Southwest,</p> <p>25 it's between you and the Union, or words to that</p>
<p style="text-align: right;">Page 1320</p> <p>1 effect?</p> <p>2 MR. PRYOR: Once again, your Honor --</p> <p>3 THE COURT: No speaking objection, just</p> <p>4 code.</p> <p>5 THE WITNESS: I meant that --</p> <p>6 THE COURT: Hold on.</p> <p>7 MR. PRYOR: Step 2 issue. The very nature</p> <p>8 of this question mischaracterizes the Step 2</p> <p>9 hearing.</p> <p>10 THE COURT: Okay. I will allow the</p> <p>11 question.</p> <p>12 THE WITNESS: Can you ask that question</p> <p>13 again?</p> <p>14 THE COURT: You can ask the question</p> <p>15 again, Mr. McKeeby.</p> <p>16 MR. McKEEBY: I could if I could remember</p> <p>17 it.</p> <p>18 THE COURT: I can read it back.</p> <p>19 Did you also tell Mr. Sims during the</p> <p>20 Step 2 hearing that this has nothing to do with</p> <p>21 Southwest, it is between you and the Union, or words</p> <p>22 to that effect?</p> <p>23 You can answer.</p> <p>24 THE WITNESS: Okay. What I meant in my</p> <p>25 Step 2 meeting was when I sent that information to</p>	<p style="text-align: right;">Page 1321</p> <p>1 my union president that it had nothing to do with</p> <p>2 Southwest Airlines, it wasn't done at Southwest</p> <p>3 Airlines, Southwest Airlines brought me in for a</p> <p>4 fact-finding meeting and they now are involved.</p> <p>5 BY MR. McKEEBY:</p> <p>6 Q. And you also said during the Step 2 hearing</p> <p>7 that you would not do it again, you wouldn't send</p> <p>8 messages like that again, did you not?</p> <p>9 A. I don't recall that. You are going to have to</p> <p>10 show that to me.</p> <p>11 Q. Well, I'm not going to do that. I will do that</p> <p>12 otherwise.</p> <p>13 A. If I could have gone to a union meeting, I</p> <p>14 could have taken the exact same information, shown</p> <p>15 that at the meeting, and I would have never been</p> <p>16 turned in.</p> <p>17 The way they did this was to use the social</p> <p>18 media policy against me. Because I was an objector,</p> <p>19 I couldn't do the same as an actual member, but I</p> <p>20 still paid dues.</p> <p>21 BY MR. McKEEBY:</p> <p>22 Q. Well, you had a complaint -- Ms. Stone</p> <p>23 complained to Southwest, correct?</p> <p>24 A. She's my union president, and yes, it was union</p> <p>25 business. It was absolutely something that had</p>

<p style="text-align: right;">Page 1322</p> <p>1 nothing to do with Southwest. It had never been 2 done like that before. 3 Q. It had nothing to do with Southwest until 4 Ms. Stone made a complaint to Southwest, fair? 5 A. Correct. And then Southwest Airlines got into 6 union business. 7 Q. And you don't think they should have done that? 8 A. Absolutely not. 9 Q. Even though Ms. Stone was a fellow flight 10 attendant? 11 A. Sir, there is a difference between when she ran 12 for president, she became the union president. She 13 knew that there were going to be complaints or good, 14 you know, accolades coming her way from members, 15 either way, it was dealt with in the union. There 16 is a separation between the two, and it had always 17 been that way until Audrey Stone took over. 18 Q. But she was a fellow employee, correct? 19 MR. PRYOR: Objection. 20 THE COURT: I will allow it. 21 THE WITNESS: She was a fellow employee 22 before she took the hat on as our union president 23 and her union business of what she actually did with 24 our union dues. 25</p>	<p style="text-align: right;">Page 1323</p> <p>1 BY MR. McKEEBY: 2 Q. So is your testimony to the jury that because 3 she was not only a Southwest employee but a union 4 president, you could do anything you wanted with 5 respect to Ms. Stone? 6 A. No, I'm not saying I would do anything I 7 wanted, but this had everything to do about union 8 business. They took these women, they spent our 9 money, and I was complaining to my union president 10 in regards to that very thing. 11 Q. Well, what couldn't you have done to Ms. Stone? 12 A. What -- repeat that, please. 13 Q. Let me change the question. 14 Is there any action you could have taken toward 15 Ms. Stone for which Southwest could have disciplined 16 you? Or because she's a union president, you can 17 make any type of communication that you wanted to, 18 whether it violated Southwest policies or not. Is 19 that your position? 20 A. The communications that I had with my union 21 president would have been just like if I was at a 22 union meeting. I could have taken the exact same 23 things and talked to that in the union meeting, and 24 Southwest could not have done a thing. 25 They used the social media policy.</p>
<p style="text-align: right;">Page 1324</p> <p>1 Under -- because I'm an objector, I can't go to 2 a union meeting. So instead, I voiced my concerns 3 about how my money was being spent. And granted, 4 she had been using that Facebook page completely for 5 union business. 6 Q. Let me ask a question. 7 MR. PRYOR: I object to him interrupting 8 the witness's answer. 9 THE COURT: I will let her finish the 10 answer briefly and then you can ask a new question. 11 MR. PRYOR: Can you read the last 12 statement she made so she can now have it in 13 context? 14 THE COURT: "So instead, I voiced my 15 concerns about how my money was being spent. And 16 granted, she had been using that Facebook page 17 completely for union business." 18 THE WITNESS: And, sir, I didn't post it 19 on her page. It was a private message, just like an 20 email. And I could have emailed it to her as well. 21 I just didn't have her email at that moment. 22 BY MR. McKEEBY: 23 Q. So let me explore that a little bit. 24 Is it your position that if you had emailed 25 Ms. Stone at her Southwest email address, you</p>	<p style="text-align: right;">Page 1325</p> <p>1 wouldn't have been disciplined? 2 A. It wouldn't have been at her Southwest email 3 address, it would have been to the Union email 4 address. 5 Q. Your contention is that had Ms. Stone 6 complained about these videos that you sent to her, 7 if they were sent through a Union email address, 8 your contention is you wouldn't have been 9 disciplined? 10 A. I think that -- and I'm just going to back up. 11 Anything that has to do with union business, 12 union activity, union -- this had clearly been a 13 Union march. We paid for it. That gave me the 14 opportunity, at that point, to speak my dissent 15 towards that. 16 They didn't even give us an opportunity to say, 17 Please don't go, before they went. They never 18 brought this to the membership until we saw it in 19 the minutes, and then it was on TWU's website, 556, 20 international's website, and also the AFL-CIO 21 website. 22 Q. I get all that. I understand all that. I'm 23 representing Southwest Airlines, as I know you are 24 aware. 25 And my question then to you is, when Southwest</p>

<p style="text-align: right;">Page 1326</p> <p>1 gets that complaint from what they regard to be a 2 co-employee, a fellow flight attendant, what would 3 you have them do, just ignore it? 4 A. Again, I'm going to say it. They never stepped 5 in union activity or business until Audrey Stone 6 took office. They started turning us in under the 7 social media -- 8 Q. Can you answer my question? Should they 9 have -- 10 MR. PRYOR: Object to the interrupting 11 again of the witness. If he wants to make a 12 motion -- 13 THE COURT: Hold on. Hold on. Hold on. 14 I thought she was finished. 15 Do you have anything to add to that 16 answer? 17 THE WITNESS: No, I don't. 18 THE COURT: Okay. You can ask your 19 question. 20 MR. McKEEBY: Move to strike as 21 non-responsive. 22 MR. PRYOR: Well, she hadn't finished her 23 answer. 24 THE COURT: She finished her answer. I 25 won't strike it as non-responsive.</p>	<p style="text-align: right;">Page 1327</p> <p>1 You can ask your new question. 2 BY MR. McKEEBY: 3 Q. Should Southwest have ignored the complaint of 4 Ms. Stone? Is that your position? 5 A. Yes. 6 Q. Thank you. 7 MR. McKEEBY: Let's go to Exhibit 40, 8 please. Move to admit Exhibit 40. 9 MR. PRYOR: Your Honor, we have a whole 10 host of objections. I think we've raised them and 11 have a continuing objection. I think they would 12 apply here. 13 THE COURT: Understood. 14 I will overrule those objections and I'm 15 allowing Number 40 in. 16 You can publish. 17 MR. GREENFIELD: No objection, your Honor. 18 MR. McKEEBY: Admitted and published? 19 THE COURT: Sorry. I knew you had no 20 written objection. So if you have any to add, 21 please let me know. 22 (The referred-to document was admitted 23 into evidence as Trial Exhibit 40.) 24 THE COURT: Okay. We are publishing. 25</p>
<p style="text-align: right;">Page 1328</p> <p>1 BY MR. McKEEBY: 2 Q. Can you identify this document, Ms. Carter? 3 A. Yes, I can. This is the last-chance agreement. 4 Q. And we actually now have a date here. It's 5 April 17, 2017. Correct? 6 A. Correct. 7 Q. And I think, to be fair, the date that I had 8 asked you about previously was the Step 2 hearing. 9 If that's the date of the last-chance agreement, 10 what's your best guess as to when the Step 2 hearing 11 was, if you have one? 12 A. I think it is 7 or 10 days after the -- the 13 Step 2 meeting is when they have to render a 14 decision. 15 Q. Okay. So then the Step 2 hearing would have 16 occurred probably 7 to 10 days prior to April 17? 17 A. Correct. 18 Q. How did you get this letter? 19 A. It was sent to me in a package. 20 Q. Was it sent directly from Southwest or was it 21 from the Union? Or do you recall? 22 A. You know what, I don't recall. 23 Q. You reviewed the document? 24 A. Uh-huh. 25 Q. You reviewed it with your union representative?</p>	<p style="text-align: right;">Page 1329</p> <p>1 A. Yes. I talked to Beth about it, and Parker -- 2 I can't think of her name -- Becky Parker. 3 Q. She's the union representative? 4 A. She was at the time. But Beth Ross was my 5 liaison. 6 Q. Let's go over some of the terms here. Let's 7 look at the first bullet. 8 That says the company will reinstate you, the 9 grievant, Charlene Carter, as a Denver-based flight 10 attendant with no loss of seniority, correct? 11 A. Correct. 12 Q. That means you were getting your job back if 13 you signed the agreement? 14 A. Correct. 15 Q. The next bullet say you will receive no back 16 pay. 17 Did you have an understanding of what that 18 meant? 19 A. I did. 20 Q. And that, in fact, meant that you would not get 21 any payment for the time that you missed prior to 22 had you signed the last-chance agreement, correct? 23 A. Correct. 24 Q. But that wasn't a big deal to you, was it, 25 because you weren't flying very much anyway, fair?</p>

<p style="text-align: right;">Page 1330</p> <p>1 A. I wouldn't say it's a big deal, but no, I 2 wasn't able to fly at that particular time. I 3 was -- 4 Q. In fact, you hadn't flown at all in 2017? 5 MR. PRYOR: Once again, object to him 6 absolutely stopping her from giving a full answer. 7 THE COURT: You can finish what your prior 8 answer was. 9 THE WITNESS: Okay, contractually, and 10 because of my seniority, I was able to bid my lines 11 every month and I was able to give my trips away. I 12 never harmed Southwest Airlines by doing so. 13 BY MR. McKEEBY: 14 Q. Right. And you hadn't flown at all in calendar 15 year 2017 up to this point, had you? 16 A. You know what, I don't recall. 17 Q. Well, we will get to that later. 18 A. Okay. 19 Q. It says, the next bullet says that your 20 termination will be reduced to a 30-day suspension 21 beginning March 16th, correct? 22 A. Correct. 23 Q. And it was actually through and including the 24 date that had already passed, so you were getting 25 time served, so to speak, fair?</p>	<p style="text-align: right;">Page 1331</p> <p>1 A. That is what -- yeah, that is what they told 2 me. 3 Q. Let's go to the sixth bullet down about the -- 4 an exchange for the consideration. 5 This is the description of the document that 6 they asked you to sign in connection with this, so 7 some type of agreement, correct? 8 A. That is correct. 9 Q. You testified to that a bit when you were 10 questioned by Mr. Pryor, correct? 11 A. Correct. 12 Q. And the next bullet says that, in addition -- 13 MR. McKEEBY: Can you blow that part up? 14 BY MR. McKEEBY: 15 Q. "In addition, you are required to comply with 16 all company policies and procedures, and any future 17 violation of the Southwest Airlines workplace 18 bullying and hazing policy, the social media policy, 19 or harassment, sexual harassment, discrimination or 20 retaliation policy would result in termination." 21 Do you see that? 22 A. Correct. 23 Q. You would agree with me that that is just a 24 requirement that would apply to any employee of 25 Southwest Airlines, they all had to comply with</p>
<p style="text-align: right;">Page 1332</p> <p>1 those policies, fair? 2 A. Yes. 3 Q. And the next bullet is the one that starts with 4 "This agreement will remain." 5 So this is the one that I think you talked 6 about with Mr. Pryor a moment ago where it talks 7 about something being in your file for 24 months. 8 And you objected to that period of time, do I 9 understand that correctly? 10 A. Yes. For one. This was the first time that -- 11 and this is what Beth Ross told me. She goes, We 12 have never done this before. Usually it's an 13 18-month or less. And she did tell me that it's 14 excessive. 15 Q. Ms. Ross, your union representative, told you 16 that? 17 A. Yes, she did. 18 Q. So had it been the 18 months that you believed 19 it should have been, would you have signed the 20 agreement? Is that why we are here, the difference 21 between 18 and 24 months? 22 A. No. 23 Q. You still wouldn't have signed it? 24 A. No. Because it was -- it was taking away my 25 rights as an individual to speak to my union.</p>	<p style="text-align: right;">Page 1333</p> <p>1 Because they were going to come back at me, and we 2 have already seen that now within testimony, that 3 Brian Talburt was going to be turning us all in 4 again. 5 Q. But that's speculation, isn't it? You don't 6 know that he was going to turn you in. 7 A. No, we all knew it as flight attendants. We 8 all knew that this is what was going on. 9 Look at what he did to Jeanna Jackson. And 10 she's here in the courtroom today. 11 MR. McKEEBY: Your Honor -- 12 THE COURT: Let's stick to the questions. 13 BY MR. McKEEBY: 14 Q. You also, I think, expressed concern -- and 15 maybe that's what you are expressing just now -- 16 that you might be punished for something that 17 happened in the past. 18 A. Correct. 19 Q. But you had already provided Southwest with 20 that packet of documents that showed all of the 21 Facebook posts that you made in the past, right? 22 The packet of documents you provided to Mr. Sims, 23 you had already given him that, right? 24 A. On my Facebook page or on Audrey's? 25 Q. I'm talking about the packet of documents that</p>

<p style="text-align: right;">Page 1334</p> <p>1 you provided to Mr. Sims. That showed the history 2 of your Facebook communications with Ms. Stone, 3 correct? 4 A. Yes. On Messenger, yes. 5 Q. Right. So Southwest had everything, right? Or 6 was there something else that you had posted that 7 you were worried that they might go back and find 8 and discipline you for? 9 A. No. And that's not what I'm talking about. 10 I'm talking about other -- and they were also 11 protected speech which we were getting turned in 12 for, because obviously it was protected for them in 13 the core group. 14 But he had gone back and he was turning people 15 in the day I got called in for this fact-finding 16 meeting. He was looking back and trying to harm 17 others. We knew this was going on because it had 18 been going on for quite some time, and they were 19 harming some really good people. 20 Q. Right. But if they went back to something that 21 had happened in the past, you could say, No, wait a 22 minute. This document protects me because it only 23 tells me I have to comply with the policies going 24 forward. 25 A. They would gotten me again if they found</p>	<p style="text-align: right;">Page 1335</p> <p>1 something that they thought was egregious or they 2 didn't like. I'm telling you, they were firing 3 and -- Southwest Airlines -- 4 MR. McKEEBY: Your Honor, limine. 5 THE COURT: I will say, so at this point I 6 need to cut off the answer and say that if your 7 counsel wants to ask you to supplement anything that 8 you're thinking of, that's fine. As long as you 9 have given an answer, then the next elaboration 10 needs to be in the next round of testimony. 11 MR. PRYOR: And maybe, your Honor, I 12 misunderstood the question. I thought it was an 13 open-ended question that allowed her to answer. He 14 asked. If I misunderstood, okay. 15 THE COURT: I will pause it now, and then 16 you can ask a new question. 17 BY MR. McKEEBY: 18 Q. You would agree with me that had Southwest 19 disciplined you for something you had done in the 20 past, you would have the right to grieve that, 21 correct? 22 A. No. I would have -- no. This right here said 23 if I broke another policy, which if, let's say they 24 found something in One Love or Sassy Stew or 25 whatever, all of the other little Facebook page</p>
<p style="text-align: right;">Page 1336</p> <p>1 things that were private, that Brian had and he 2 turned in, this right here would have said, guess 3 what, in that 24-month period, you have now violated 4 again. I was not going to sign this. 5 Q. So your belief was that even if it happened in 6 the past, was a post that you had made prior to 7 April 17, 2017, Southwest could still discipline you 8 for that? 9 A. It was happening. Yes. 10 Q. And you raised those concerns with Mr. Sims, I 11 take it? 12 A. No. I raised those concerns with Beth Ross and 13 with -- 14 Q. With Ms. Ross -- 15 MR. PRYOR: Objection, your Honor. 16 THE WITNESS: She was my liaison. 17 MR. PRYOR: He is continuously 18 interrupting her answer. He knows what her answer 19 is. 20 THE COURT: Hold on. We've got to keep 21 separation between the end of the question and the 22 answer. 23 BY MR. McKEEBY: 24 Q. Who was Ms. Ross? 25 A. She was my liaison.</p>	<p style="text-align: right;">Page 1337</p> <p>1 MR. PRYOR: No. Object, your Honor. That 2 was not the question. She was explaining what Beth 3 Ross told her, and he interrupted it. 4 THE COURT: You can finish your 5 explanation briefly on what Ms. Ross told you and 6 then define who Ms. Ross was. 7 THE WITNESS: Beth Ross was my liaison. 8 She's right there at the very top of that. She was 9 my grievance specialist. 10 BY MR. McKEEBY: 11 Q. Fair enough. 12 At no point did you request of Mr. Sims, the 13 person who you said was amazing and who was fair to 14 you, Hey, I would like to talk about some concerns I 15 have about this document? 16 A. I raised those with Becky Parker, and she said 17 this was the best I was going to get. 18 Q. And Becky Parker -- 19 A. And she -- 20 Q. I'm sorry. 21 A. She's the union grievance chair, and I was 22 going through her. I was told not to reach out to 23 anybody in the company when I was in my fact-finding 24 meeting and in my first first step meeting, that 25 this was to go through the Union.</p>

<p style="text-align: right;">Page 1338</p> <p>1 Q. Mike Sims never told you not to contact him, 2 did he? 3 A. No. My union rep, though, was the one that I 4 was dealing with with all of this. 5 Q. But no -- 6 A. And I -- I raised those concerns with her. 7 She went to Mike Sims, I guess. I do not know 8 that for a fact. But she told me, This is the best 9 you are going to get, Charlene. So I did raise 10 those concerns, but not personally with Mike Sims, 11 no, I did not. 12 Q. And you could have? 13 MR. PRYOR: Object. Asked and answered. 14 She just explained why she couldn't. 15 THE COURT: I'll allow it. 16 BY MR. McKEEBY: 17 Q. You could have contacted Mr. Sims, you could 18 have disagreed with what the Union -- the advice 19 that the Union was giving you? I mean, you are 20 suing them in this case. Why couldn't you have 21 picked up the phone and contacted Mike Sims or sent 22 him an email saying, Look, I have got some real 23 concerns about this agreement and what it means. I 24 would like to talk to you about it? 25 MR. PRYOR: Object, asked and answered,</p>	<p style="text-align: right;">Page 1339</p> <p>1 compound, argumentative. 2 THE WITNESS: Because that's exactly -- 3 THE COURT: I'll allow it. 4 THE WITNESS: Because that is exactly what 5 Becky Parker did for me. 6 And at this time, sir, I wasn't able to 7 get Mike Sims' number anyway. I mean, I guess I 8 could have asked Becky. 9 But they were handling all of this. At 10 that point I was fired. I couldn't get online to 11 get Mike Sims' number. And I'm not trying to be 12 evasive or anything like that. But I was working 13 through my union. 14 BY MR. McKEEBY: 15 Q. Understood. 16 I think you testified -- I forget if it was you 17 or Ms. Stone -- but how many -- well, I'll ask the 18 question. 19 How many times had you met Ms. Stone before 20 sending the abortion videos to her? 21 A. One time. 22 Q. That was in 2013? 23 A. Correct. At a union meeting. 24 Q. Had you ever discuss Ms. Stone's view on 25 abortion?</p>
<p style="text-align: right;">Page 1340</p> <p>1 A. No. 2 Q. Did you ever discussed her religious views? 3 A. No. 4 Q. Did you know if she had any -- you testified 5 Friday about your personal experience with abortion 6 and how deeply that impacted you. 7 Did you ever ask Ms. Stone if she had anything 8 similar in her past? 9 A. No, I didn't. 10 Q. Did you ever ask her if she had a family member 11 that had to deal with an abortion issue or a close 12 friend? 13 A. No. All of the stuff that I sent her had to do 14 with them going to the march. 15 Q. Well, you sent her videos of aborted fetuses or 16 babies, depending on your perspective, is what you 17 said. 18 A. And they marched for Planned Parenthood. 19 Q. Okay. 20 And after you sent the videos to Ms. Stone, did 21 you make any effort to follow up with her with any 22 additional message? 23 A. No, I did not. As a matter of fact, she 24 actually sent me stuff regarding how she wanted us 25 and their committee to vote or to speak against the</p>	<p style="text-align: right;">Page 1341</p> <p>1 national right-to-work foundation. 2 Q. Right. But you never reached out to her and 3 said, Hey, I would like to have a little bit more of 4 a dialogue. I sent you those videos, I wanted to 5 make a point, and how I would like to talk to you a 6 little further about my intent. Anything like that? 7 A. No, because she had never even reached out to 8 me. 9 Q. She had a history of not responding to you, I 10 think you testified to that, correct? 11 A. To all of the things that I was concerned about 12 of them doing to our union, yes, she never reached 13 out. 14 Q. And you never -- you didn't complain to the 15 international like you did on the Don Shipman and 16 other issues, you didn't reach out to them about 17 Ms. Stone, did you? About the complaints that you 18 had with respect to Ms. Stone -- 19 A. Actually, I did. I actually made two phone 20 calls to Mr. Samuelson and then Alex Garcia, and 21 neither one of them called me back. 22 Q. Did you send them the videos? 23 A. No, I didn't send them the videos, but they 24 knew that they had gone to the march. 25 Q. In fact, the only person that you sent those</p>

<p style="text-align: right;">Page 1342</p> <p>1 videos to was Audrey Stone, correct?</p> <p>2 A. My union president, yes.</p> <p>3 Q. No other employee or anyone else at Southwest?</p> <p>4 A. No, sir.</p> <p>5 Q. The only one you sent them to was the person</p> <p>6 who had ignored you over the past three years when</p> <p>7 you were sending the other Facebook messages that we</p> <p>8 have seen in this case, fair?</p> <p>9 A. I sent them --</p> <p>10 MR. PRYOR: Object, asked and answered.</p> <p>11 THE COURT: I'll allow it.</p> <p>12 THE WITNESS: I sent them to my union</p> <p>13 president, yes, after the march.</p> <p>14 BY MR. McKEEBY:</p> <p>15 Q. Now, you attended a fact-finding meeting as</p> <p>16 well in the grievance process, fair?</p> <p>17 A. That was the first meeting, yes.</p> <p>18 Q. And that was the meeting with Mr. Schneider,</p> <p>19 correct?</p> <p>20 A. It was a meeting with Mr. Schneider, Meggan</p> <p>21 Jones, who is also here in the courtroom sitting</p> <p>22 with you. And it was Denise Gutierrez. I can't</p> <p>23 remember if it was Edie Barnett that was on the call</p> <p>24 as well. And then my union rep, Chris Sullivan,</p> <p>25 yes.</p>	<p style="text-align: right;">Page 1343</p> <p>1 Q. Ms. Gutierrez, was she there in person or was</p> <p>2 she on the phone?</p> <p>3 A. She was on the phone.</p> <p>4 And we were told that she was an attorney when</p> <p>5 we first got into the meeting.</p> <p>6 Q. Who told you that?</p> <p>7 A. I believe it was Ed Schneider.</p> <p>8 Q. You found out later that he may have been</p> <p>9 mistaken about that?</p> <p>10 A. That is correct.</p> <p>11 Q. Any complaints about how Mr. Schneider treated</p> <p>12 you during the fact-finding meeting?</p> <p>13 A. Not complete complaints, but I was pretty much</p> <p>14 being -- there were questions being thrown at me</p> <p>15 about how to use Facebook by Denise Gutierrez. I</p> <p>16 had questions from Ed Schneider.</p> <p>17 My union rep pulled me out of that meeting</p> <p>18 three times and he said, They are badgering you.</p> <p>19 MR. McKEEBY: Move to strike as hearsay.</p> <p>20 MR. PRYOR: Object. He asked her what her</p> <p>21 thoughts were.</p> <p>22 THE COURT: Hold on.</p> <p>23 I will overrule that request.</p> <p>24 MR. McKEEBY: Okay.</p> <p>25</p>
<p style="text-align: right;">Page 1344</p> <p>1 BY MR. McKEEBY:</p> <p>2 Q. And you said Mr. Sullivan was your union</p> <p>3 representation at the meeting?</p> <p>4 A. That is correct.</p> <p>5 Q. And Mr. Schneider asked you questions during</p> <p>6 the meeting, I think you said.</p> <p>7 A. Yes, he did.</p> <p>8 Q. He talked to you about the social media policy</p> <p>9 during the meeting, correct?</p> <p>10 A. That's the original claim that I was being</p> <p>11 called in for, and then it became the other with</p> <p>12 Audrey Stone. But yes, social media.</p> <p>13 Q. Right. And he talked to you about the bullying</p> <p>14 and hazing policy, or the workplace bullying and</p> <p>15 hazing policy, correct?</p> <p>16 A. I don't remember him talking about the</p> <p>17 workplace bullying and hazing -- I don't remember</p> <p>18 all of the conversation specifically.</p> <p>19 Q. But you did go over those policies?</p> <p>20 A. I don't remember going over the policies in the</p> <p>21 meeting.</p> <p>22 Q. During the fact-finding meeting, Mr. Schneider</p> <p>23 asked you why you sent the videos, the abortion</p> <p>24 videos to Ms. Stone, correct?</p> <p>25 A. Let me clarify something. Yes, he did ask</p>	<p style="text-align: right;">Page 1345</p> <p>1 that, but I'm going to clarify something.</p> <p>2 Those -- those videos that I sent, they were</p> <p>3 from an abortion site or somebody else posting them.</p> <p>4 But those are clearly babies, and I'm going to call</p> <p>5 them babies, and they are no different than if</p> <p>6 somebody had a preemie baby or a miscarriage.</p> <p>7 Q. I understand that's your view and I don't want</p> <p>8 to argue with you about that. I mean, I respect</p> <p>9 your beliefs and Southwest respects your beliefs,</p> <p>10 and I'm not here to debate those beliefs.</p> <p>11 My question was, did Mr. Schneider ask you, Why</p> <p>12 did you send those videos to Ms. Stone?</p> <p>13 A. Yes. And I told him.</p> <p>14 Q. What did you tell him?</p> <p>15 A. I told him that I sent them because I'm a</p> <p>16 Christian, and that my union president took about 20</p> <p>17 women to the march in DC that was sponsored by</p> <p>18 Planned Parenthood, and they also had a banner that</p> <p>19 represented Southwest there at that march.</p> <p>20 Q. And you also told him that you were a</p> <p>21 Christian, correct?</p> <p>22 A. That is correct.</p> <p>23 Q. And you also told him that abortion was a huge</p> <p>24 issue for you?</p> <p>25 A. That is correct.</p>

<p style="text-align: right;">Page 1346</p> <p>1 Q. And you also told Mr. Schneider that you do 2 whatever you can to get the word out, correct? 3 A. To share my experience about -- yes. About an 4 abortion, to save another life, or to help another 5 young girl or woman, yes. 6 Q. Like Ms. Stone -- 7 A. Like I went through. 8 Q. -- was she considering an abortion, as far as 9 you knew? 10 A. Sir, again, those were sent in regards to the 11 Women's March. I didn't send them to her as a 12 person, I sent them to her as my union president 13 that took these women, spent our dues money for 14 transportation, for hotel, for food, and for 15 whatever else, and they did not represent all of our 16 members going to this march. We didn't even know. 17 MR. McKEEBY: Your Honor, non-responsive. 18 THE COURT: I will sustain that. I will 19 strike it. 20 Your lawyer can ask you for any further 21 elaboration in the next round of testimony. 22 You can ask a new question. 23 BY MR. McKEEBY: 24 Q. To come back to my question, and I don't think 25 you answered it, what you told Mr. Schneider was</p>	<p style="text-align: right;">Page 1347</p> <p>1 that this was an important issue for you and you do 2 whatever you can to get the word out? 3 A. That is correct. 4 Q. But yet the only person you chose to send the 5 video, the only person you chose to get the word out 6 to was the person who had ignored you for the last 7 three years when you were sending Facebook messages 8 about other topics? 9 A. No. Actually, I also got called in for posting 10 those videos on my personal Facebook page, which 11 made no reference to Southwest or the Union. But 12 the exact same videos on my personal page. I had 13 been putting pro-life things on my page for years. 14 Q. Understood. That's a separate issue. 15 But the only Southwest-affiliated person who 16 you directed those abortion videos -- however you 17 want to characterize them -- the only person 18 affiliated with Southwest who you sent those videos 19 to was Audrey Stone, fair? 20 A. My union president for going to that march, 21 yes. 22 Q. Thank you. 23 And let's talk about your motivation in sending 24 that to her. You talked about that today and Friday 25 as well, that you were -- you were upset that the</p>
<p style="text-align: right;">Page 1348</p> <p>1 Union went on this Women's March that you contend 2 was sponsored by Planned Parenthood, fair? 3 A. Yes. 4 Q. That made you angry, didn't it? 5 A. Not really angry. It disgusted me and it made 6 me sad. 7 Q. And you -- I'm sorry. I'm sorry. 8 MR. PRYOR: Your Honor, again -- 9 MR. McKEEBY: I thought she was finished. 10 THE COURT: And he stopped. 11 MR. PRYOR: After he interrupted. 12 THE COURT: Counsel, you are not in charge 13 of the courtroom. 14 You can ask your next question. Sorry. 15 You can finish your answer. He had stopped. 16 BY MR. McKEEBY: 17 Q. I thought you were finished. I apologize. 18 Please go on. 19 A. Now, disgusted, yes. I thought it was a 20 disgusting way to represent a very professional 21 group of not just women, but also men, going to a 22 march like that. It was political and it was also 23 Planned Parenthood spons- -- we all know what that 24 march was for. 25 Q. You sent that video to Ms. Stone because you</p>	<p style="text-align: right;">Page 1349</p> <p>1 wanted to provoke an emotional response in her, did 2 you not? 3 A. No. 4 Q. You wanted to shock her? 5 A. No. 6 Q. You saw Ms. Stone's response in this courtroom 7 where she was not able to look at the video and she 8 was sobbing. 9 Did you -- first of all, you saw that, right? 10 A. I saw her up here, yes. I don't know if she 11 actually looked at the video. But yes, she was over 12 here crying. 13 Q. Right. And she cried at the arbitration that 14 you appeared in as well, right? 15 A. Yes. 16 Q. After the -- I'm sorry. 17 MR. PRYOR: Object to reference to the 18 arbitration. 19 THE COURT: Hold on. Objection? 20 MR. PRYOR: Limine issue, arbitration. 21 THE COURT: Understood. 22 I will overrule that. The fact of is 23 something that I have said we can discuss, but not 24 the specific substance. 25</p>

<p style="text-align: right;">Page 1350</p> <p>1 BY MR. McKEEBY:</p> <p>2 Q. There was an arbitration after the Step 2</p> <p>3 hearing, correct?</p> <p>4 A. Yes.</p> <p>5 Q. At a hotel room here in Dallas, correct?</p> <p>6 A. Yes.</p> <p>7 Q. And Ms. Stone was at that hearing as a witness,</p> <p>8 correct?</p> <p>9 MR. PRYOR: Your Honor, do I have a</p> <p>10 continuing -- I think I do.</p> <p>11 THE COURT: You do.</p> <p>12 MR. PRYOR: Thank you.</p> <p>13 THE COURT: Thank you for asking. Yes,</p> <p>14 running objection.</p> <p>15 BY MR. McKEEBY:</p> <p>16 Q. Ms. Stone was a witness at that hearing,</p> <p>17 correct?</p> <p>18 A. Yes, she was.</p> <p>19 Q. The arbitration.</p> <p>20 A. Uh-huh.</p> <p>21 Q. And you were there during the entirety of the</p> <p>22 arbitration?</p> <p>23 A. Yes.</p> <p>24 Q. And you were represented by counsel at that</p> <p>25 arbitration?</p>	<p style="text-align: right;">Page 1351</p> <p>1 A. Yes.</p> <p>2 Q. And Ms. Stone had a similar reaction as she did</p> <p>3 in this courtroom when those videos were played at</p> <p>4 the arbitration; she was emotional, correct?</p> <p>5 A. Yes.</p> <p>6 Q. And that's precisely the response you wanted to</p> <p>7 evoke when you sent those videos to her, is that not</p> <p>8 true?</p> <p>9 A. No, that's not true.</p> <p>10 MR. PRYOR: Object, asked and answered.</p> <p>11 THE COURT: Overruled.</p> <p>12 BY MR. McKEEBY:</p> <p>13 Q. So did you believe Ms. Stone in the courtroom</p> <p>14 and at the arbitration, or do you think she was</p> <p>15 playing it up for the jury?</p> <p>16 A. When she went to the march, she had to have</p> <p>17 seen pro life on huge jumbotron screens of some of</p> <p>18 the most horrific, sad abortion pictures, because I</p> <p>19 knew people that were there. So if that didn't</p> <p>20 upset her, then how would this upset her? Because</p> <p>21 she took those women to that march.</p> <p>22 Q. So your testimony is that because she attended</p> <p>23 the march, there would be no reason to think she</p> <p>24 would be upset by videos of aborted fetuses/babies?</p> <p>25 A. Everybody is upset when they see something like</p>
<p style="text-align: right;">Page 1352</p> <p>1 that, but it's the realization of what she went to</p> <p>2 and she supported.</p> <p>3 Q. Everybody would be upset when they saw</p> <p>4 something like that, is that your testimony?</p> <p>5 A. I believe -- I mean, it breaks my heart, yeah,</p> <p>6 it breaks my heart, but the only way to get the</p> <p>7 message across is for people to actually see what it</p> <p>8 is.</p> <p>9 Q. After seeing Ms. Stone's reaction at the</p> <p>10 arbitration in the hotel in Dallas or here in this</p> <p>11 courtroom, do you have any regrets about what you</p> <p>12 did?</p> <p>13 A. On a personal level, I'm sorry that it affected</p> <p>14 her in such a way, yes. But on a union level, maybe</p> <p>15 she should have reached out to all of us as</p> <p>16 dues-paying -- even though I'm an objector, we</p> <p>17 helped pay for that.</p> <p>18 Don't represent us as -- to me, when you wear</p> <p>19 those pink -- and it's called the pink pussy hat</p> <p>20 project -- you are not representing us as women that</p> <p>21 I would think that most of our flight attendants</p> <p>22 would want.</p> <p>23 Q. So you said a lot there, but I'm not sure that</p> <p>24 I heard an answer to my question, which is do you</p> <p>25 have any regrets about your conduct in sending those</p>	<p style="text-align: right;">Page 1353</p> <p>1 videos of aborted babies to Ms. Stone?</p> <p>2 MR. PRYOR: Object, asked and answered.</p> <p>3 She absolutely answered his question. He's just</p> <p>4 looking for a different answer.</p> <p>5 THE COURT: I'll allow it.</p> <p>6 THE WITNESS: To my union president that</p> <p>7 took the money, and those women -- and I'm kind of</p> <p>8 shocked with Southwest Airlines not --</p> <p>9 MR. McKEEBY: Your Honor --</p> <p>10 THE WITNESS: I would have done it again,</p> <p>11 yes, because that's the only way that I could have</p> <p>12 gotten my point across, that I do not ever want our</p> <p>13 representatives as we pay them -- I mean, this had</p> <p>14 nothing to with our jobs. Nothing.</p> <p>15 BY MR. McKEEBY:</p> <p>16 Q. You recognized some of the other attendees at</p> <p>17 the Women's March who were Southwest flight</p> <p>18 attendant pilots -- or, excuse me -- flight</p> <p>19 attendants?</p> <p>20 A. I know pretty much all of them.</p> <p>21 Q. You didn't send any of them the videos, did</p> <p>22 you?</p> <p>23 A. No. They are not my president.</p> <p>24 Q. Now, I think you alluded to it in your answer</p> <p>25 to my question. But you would agree with me that</p>

<p style="text-align: right;">Page 1354</p> <p>1 you objected to the march for other reasons other 2 than just your assessment that the marchers were 3 supporting a pro-choice position, correct? 4 A. Reword that. Or not reword. Reask that again, 5 I'm sorry. 6 Q. That's a fair request. 7 A. I'm sorry. 8 Q. That's all right. 9 You had problems with the other aspects of the 10 Women's March, too, that didn't have anything to do 11 with abortion, such as women's rights generally? 12 MR. PRYOR: Object to the relevance. It's 13 not anything she raised. 14 THE COURT: No speaking objections. 15 I'll allow it. 16 BY MR. McKEEBY: 17 Q. Let's go to -- well, I'm sorry. You can answer 18 my question. 19 A. Well, it is kind of funny because I am a woman. 20 Q. I would agree. 21 A. And did she respect my rights? 22 Q. This isn't the setting for you to ask me 23 questions. 24 A. I don't believe she respected our rights. 25 Going to that march, using our money, once again,</p>	<p style="text-align: right;">Page 1355</p> <p>1 she didn't respect a lot of the membership by doing 2 that. 3 Q. My question -- 4 A. And I'm a woman. 5 Q. I understand that. 6 My question, though, Ms. Carter, is you 7 objected to not just the pro-choice aspect of that 8 march but to the march in general, to the fact that 9 they were marching on behalf of women rights 10 generally, is that fair? 11 A. No, my biggest objection was regarding who they 12 were marching for and with, Planned Parenthood. 13 MR. McKEEBY: Let's go to Exhibit 98, and 14 specifically 98.6, which is already in evidence. 15 And specifically 98.6. 16 BY MR. McKEEBY: 17 Q. These are the fact-finding notes, Ms. Carter. 18 A. Okay. 19 Q. And the second portion where it talks about, 20 okay, our union went to the Women's March. 21 MR. McKEEBY: Let me blow that up. 22 MR. PRYOR: Your Honor, object to improper 23 impeachment. This is someone else's notes. He can 24 ask her her recollection of what she said, but to 25 impeach --</p>
<p style="text-align: right;">Page 1356</p> <p>1 THE COURT: Hold on. That's speaking. 2 Yes, understood. You can use it in the 3 manner that we just discussed, which is it's someone 4 else's notes, but you can address them with her. 5 MR. McKEEBY: I'm sorry? 6 THE COURT: They are someone else's notes, 7 but you can address them with her. 8 MR. McKEEBY: I'm using them to impeach 9 her. I think. 10 BY MR. McKEEBY: 11 Q. All right. The sentence that starts with "I 12 believe" that's about right over here. 13 A. Yes, I see that. 14 Q. "I believe we have women rights and no one is 15 stomping on them. I believe we have the same rights 16 as men." Correct? 17 A. As a flight attendant, absolutely. I have more 18 seniority and more rights -- not rights, but more -- 19 because they were supposedly marching for pay and 20 things like that. 21 Due to my job, and this is what I'm referring 22 to, is I make more money than some men do as flight 23 attendants because of the seniority range. I have 24 been at Southwest for almost right at 21 years. 25 And there is -- so this, for me, I have all</p>	<p style="text-align: right;">Page 1357</p> <p>1 kind of rights as a woman at Southwest Airlines. I 2 never complained about my job. 3 Q. So this notion of flight attendants marching 4 for equal pay you thought was ridiculous, fair? 5 A. In the -- when it comes to our job, and I would 6 have figured, since they were saying they were 7 representing flight attendants at this march, this 8 is kind of irrelevant on our part. 9 Q. Let me go to the last sentence. Does that 10 sound like something that you said? 11 "In 20 years I have never been in trouble. I 12 don't try to hurt people. I love my job." 13 A. Yeah, I've never hurt anybody on my job. 14 MR. McKEEBY: Let's go to lower on the 15 screen, if you can get rid of that. 16 BY MR. McKEEBY: 17 Q. So Mr. Schneider, at least according to these 18 notes, indicates that he asked you if you knew for 19 sure that Audrey was supporting Planned Parenthood 20 or women's rights, correct? Right here. "Ed, do 21 you know for sure"? 22 A. Yes. 23 Q. Do you see that? 24 It is down further. 25 A. Yes, I see it.</p>

<p style="text-align: right;">Page 1358</p> <p>1 Q. And your response was "It was a whole plethora 2 of things. It was sexual harassment, fair 3 treatment, equal pay. We already get those things 4 under the Constitution." 5 That's what you were referring about earlier, 6 in terms of you don't believe there was any issue 7 with equal pay and these other issues, fair? 8 MR. PRYOR: Object, mischaracterizes 9 testimony. She just answered what she was referring 10 to as it related to equal pay. He's trying to make 11 it -- 12 THE COURT: Hold on. That's a speaking 13 objection. 14 I will overrule that. You can answer. 15 THE WITNESS: Okay. Can you ask that 16 again? 17 BY MR. McKEEBY: 18 Q. Yes. I'm not sure if I can ask the exact 19 question again, but I will try to get close. 20 You were telling Mr. Schneider that you didn't 21 think any of these issues that were associated with 22 the march, sexual harassment, fair treatment, equal 23 pay, none of that was legitimate because you already 24 get those things under the Constitution, correct? 25 A. I get those under my job and the Constitution.</p>	<p style="text-align: right;">Page 1359</p> <p>1 Yes. All -- I don't believe that I am without equal 2 rights at all. 3 Q. And you disagreed with the Union and the flight 4 attendants marching in that march in support of 5 these issues, fair? 6 A. When it comes to our jobs, this didn't have 7 anything to do with our jobs. And that's what she 8 represents when she took the banner that says -- I 9 believe it's the representation of 556, Southwest 10 Airlines flight attendants or whatever on the 11 banner. She was representing us at this march. 12 Q. You also said during the fact-finding meeting 13 that one of your reasons for sending Ms. Stone the 14 videos was because you wanted to get her feedback on 15 her position about abortion, correct? You wanted to 16 open up a dialogue? 17 A. Can you show me that, where I wrote that, or 18 where I said it? 19 Q. Sure. I can show you from the notes. 20 It's 98.11. If that refreshes your 21 recollection. Again -- 22 MR. PRYOR: Hang on one second. Counsel, 23 I need to find the document. 24 Where is it? Go ahead. Thank you. 25 THE WITNESS: I see it.</p>
<p style="text-align: right;">Page 1360</p> <p>1 BY MR. McKEEBY: 2 Q. It says -- I guess this is actually 3 Ms. Gutierrez asking you -- "Are you familiar with 4 her stance on abortion?" 5 And you say, "No, I was trying to get feedback 6 on that." 7 A. I was trying to get feedback on it. They had 8 taken -- they had taken those women. 9 Q. You were trying to get feedback from Ms. Stone? 10 A. She could have replied to me. 11 Q. By sending her videos of aborted babies, you 12 were hoping to get feedback from a person who had 13 ignored you for three years, is that your testimony? 14 A. Well, I would have hoped at this point, because 15 it was such a hot topic, that she would have 16 responded. 17 Q. And instead of responding, she made a complaint 18 to Southwest Airlines, fair? 19 A. Correct. 20 Q. Did you really expect her to respond to you 21 with that kind of dialogue when you sent those 22 videos? Was that really your expectation? 23 A. Honestly, yes. 24 Q. Let's go to -- well, let's wait. 25 You also mention in your testimony that you</p>	<p style="text-align: right;">Page 1361</p> <p>1 objected to the pink hats, correct? 2 A. That is correct. 3 Q. And your testimony, as I understand it, and I 4 will let you correct me if I'm mistaken, but you 5 believe those pink hats were designed to look like 6 female genitalia? 7 A. The whole -- and I've got documentation on 8 that -- but, yes, that is exactly what it was 9 supposed to be. And that was confirmed to me by 10 Jessica Parker. 11 Q. And who is that? 12 A. She was a union, I believe, shop steward at the 13 time. 14 MR. McKEEBY: Let's pull 98 back and go to 15 98.7. It sounds like a radio station. 16 BY MR. McKEEBY: 17 Q. This is a dialogue between you and 18 Mr. Schneider and Ms. Gutierrez about the vagina 19 hats, correct? 20 A. Uh-huh. Yes. 21 Q. And there is some discussion about what it 22 means. Charlene, you say, "Yes, that's a pussy hat. 23 It is supposed to be a vagina." 24 A. Uh-huh. 25 Q. And Ed at some point says, "It's a knit</p>

<p style="text-align: right;">Page 1362</p> <p>1 stocking cap and it's pointed on the ends." 2 And then a few lines down you say, "It's a 3 vagina hat, no different from what I sent to her." 4 Do you see that? 5 A. The whole reason that the women wore those hats 6 was due to a remark that President Trump at that 7 time had made about grabbing women, and that was 8 what this -- 9 MR. McKEEBY: Objection, non-responsive. 10 MR. PRYOR: It is responsive. 11 THE COURT: It's not. Hold on. 12 MR. McKEEBY: I just asked her what she 13 said in the document. 14 THE COURT: I will sustain that objection. 15 Strike. Jury, please disregard. 16 You can ask the question. 17 BY MR. McKEEBY: 18 Q. I'm not trying to ask you about Mr. Trump, I'm 19 just saying that this document at least reflects 20 that you said, "It's a vagina hat. It's no 21 different than what I sent to her." 22 Is that consistent with your recollection? 23 A. Yes. 24 Q. But that's not true, is it? 25 What you sent to Ms. Stone looked nothing like</p>	<p style="text-align: right;">Page 1363</p> <p>1 the pink pussy hats that the -- 2 A. What I sent to Ms. Stone -- 3 Q. Hold on. Let me finish my question -- 4 A. Okay. 5 Q. -- and then I will let you talk. 6 A. Okay. Of course. 7 Q. You would agree with me that what you sent to 8 Ms. Stone via Facebook Messenger showed pictures of 9 women in hats that were not at all like the hats 10 that the women in the Women's March wore? 11 A. Not her specifically. But if you will read 12 what I wrote her, I said, "I'm so glad this is not 13 the types of costumes that you wore and it was 14 just" -- I think "just the hats that you did wear," 15 which I believed was degrading to us as women. 16 Q. But you are saying here in the meeting that the 17 vagina hat is no different from what you sent to 18 her. And by "her," you mean Ms. Stone. 19 A. It was supposed to represent exactly that same 20 genitalia but in a little hat. Yes. 21 Q. Since you mentioned the message to Ms. Stone, 22 let's go ahead and pull that up. 23 MR. McKEEBY: It's Exhibit 47. 24 THE COURT: Its already in, so we have 25 unmuted the jury screens.</p>
<p style="text-align: right;">Page 1364</p> <p>1 MR. McKEEBY: Can we blow that up a little 2 bit so that she can see it? 3 BY MR. McKEEBY: 4 Q. This is what we were talking about, correct? 5 A. They didn't dress like that. 6 Q. They did not dress like that, did they? 7 A. No. 8 Q. But this is what you sent Ms. Stone? 9 A. That's correct. And this was some of the 10 costumes that were there at the march. 11 Q. But you don't know that any Southwest flight 12 attendant wore a costume like this, do you? 13 A. Honestly, no, I don't know, because we only had 14 videos and short clips of just part of the march 15 from them. 16 Q. But none of the pictures that we have shown in 17 this case, and specifically of women in pink hats, 18 show anything that looks like this? 19 A. No. 20 Q. And I understand you have an accommodation 21 claim in this lawsuit, and we will get to that in a 22 minute. 23 Is it your testimony or your position that 24 Southwest should have accommodated you by allowing 25 you to send photos like this to Ms. Stone? Or does</p>	<p style="text-align: right;">Page 1365</p> <p>1 that -- well, I will let you answer that question. 2 A. First of all, I never knew you had to have an 3 accommodation for anything at Southwest. I had 4 never heard of what they referred to me as the ACT 5 department. 6 And now, through testimony, I'm being told that 7 it should have gone through employee relations. 8 They didn't tell me that either. 9 But I specifically said, in my fact-finding 10 meeting, that I was a Christian and this is why, you 11 know, that I was totally against this march, and 12 then taking those women and going. 13 Q. So let me get this straight, though. Is it 14 your testimony and your position in this case that 15 sending these pictures to Ms. Stone was an 16 expression of your Christian faith? 17 A. When they were wearing the actual knitted hats, 18 that was supposed to be a symbol and -- it was -- 19 and I've got it in my information. It's called the 20 Pussy Hat Project. And no, it may not look just 21 like this, okay, exactly like this, but it was in 22 reference to exactly this. 23 Q. But my question to you is a little bit 24 different, and it's as follows: You are claiming in 25 this case that Southwest had some duty to reasonably</p>

<p style="text-align: right;">Page 1366</p> <p>1 accommodate your religious beliefs. Correct so far?</p> <p>2 Do you understand that?</p> <p>3 A. When I heard the testimony the other day, they</p> <p>4 did not consider it.</p> <p>5 MR. McKEEBY: Your Honor, this is a</p> <p>6 yes-or-no question.</p> <p>7 BY MR. McKEEBY:</p> <p>8 Q. I just want to know what your understanding is</p> <p>9 of this position in this case. Yes or no?</p> <p>10 THE COURT: Yes, and then you can</p> <p>11 elaborate in the next round. Thank you.</p> <p>12 MR. PRYOR: I object to the extent he's</p> <p>13 trying to call for a legal conclusion about our</p> <p>14 position in this case. He wants to ask her facts --</p> <p>15 THE COURT: Hold on. No speaking</p> <p>16 objections.</p> <p>17 I will allow the question.</p> <p>18 You can answer.</p> <p>19 BY MR. McKEEBY:</p> <p>20 Q. Should I repeat the question?</p> <p>21 A. Please.</p> <p>22 Q. I thought so.</p> <p>23 It's your position in this case that Southwest</p> <p>24 Airlines should have accommodated your religious</p> <p>25 beliefs, fair?</p>	<p style="text-align: right;">Page 1367</p> <p>1 A. I told them I was a Christian, yes.</p> <p>2 Q. And is it your position that they should have</p> <p>3 accommodated your religious beliefs by allowing you</p> <p>4 to send this type of -- not this type -- this</p> <p>5 photograph to Ms. Stone? Is that part of your</p> <p>6 accommodation claim?</p> <p>7 A. This picture was sent to my union president.</p> <p>8 Southwest should have never gotten involved in union</p> <p>9 business. If Audrey wanted to do something to me,</p> <p>10 they've got counsel right over there, they could</p> <p>11 have done something to me.</p> <p>12 Q. So Southwest should have allowed you to send</p> <p>13 this picture to Ms. Stone, and they are wrong for</p> <p>14 punishing you for doing so, is your position?</p> <p>15 A. Yes.</p> <p>16 Q. And you indicated -- you can now take it</p> <p>17 down -- at the fact-finding meeting, and I think</p> <p>18 perhaps in this case, that the fact that those women</p> <p>19 were wearing the pink pussy hats was disgusting,</p> <p>20 that's the word you used, correct?</p> <p>21 A. It was. It didn't represent any of us as</p> <p>22 women.</p> <p>23 Q. And this isn't disgusting? This --</p> <p>24 A. Like I said, she took the women to this march,</p> <p>25 and they were marching with women with -- I didn't</p>
<p style="text-align: right;">Page 1368</p> <p>1 bring up the pussy hat part of it. They wore the</p> <p>2 hats that were supposed to be a symbol --</p> <p>3 MR. McKEEBY: Your Honor, non-responsive.</p> <p>4 THE WITNESS: I don't know how to answer</p> <p>5 that question.</p> <p>6 BY MR. McKEEBY:</p> <p>7 Q. Well, let me try and help you.</p> <p>8 MR. PRYOR: I object to him interrupting</p> <p>9 her unless he gets a ruling from the Court.</p> <p>10 MR. McKEEBY: I'm not getting responses to</p> <p>11 my questions.</p> <p>12 THE COURT: I think the answer was</p> <p>13 sufficiently non-responsive to where now you can ask</p> <p>14 the question again.</p> <p>15 MR. McKEEBY: Can you read the question?</p> <p>16 I don't remember.</p> <p>17 (Thereupon, the requested portion was read</p> <p>18 back by the reporter as above recorded.)</p> <p>19 MR. McKEEBY: Thank you.</p> <p>20 BY MR. McKEEBY:</p> <p>21 Q. I will ask it slightly differently.</p> <p>22 You told us previously a moment ago that</p> <p>23 the hats that the women wore in Washington were</p> <p>24 disgusting.</p> <p>25 Is this not disgusting to you, these</p>	<p style="text-align: right;">Page 1369</p> <p>1 images?</p> <p>2 A. As a woman going to that march, yes, they would</p> <p>3 have been disgusting. Again, I sent them to my</p> <p>4 union president who had taken those women to that</p> <p>5 march, and this was union business.</p> <p>6 Q. And did you also send this photo to Ms. Stone</p> <p>7 with the hope that she would respond to open up some</p> <p>8 type of dialogue with you?</p> <p>9 A. Yes. I was hoping for it.</p> <p>10 MR. McKEEBY: I'm looking for this, your</p> <p>11 Honor.</p> <p>12 BY MR. McKEEBY:</p> <p>13 Q. Now, you have said repeatedly in response to</p> <p>14 some of my questions that it was wrong for Ms. Stone</p> <p>15 to turn you in to Southwest Airlines, fair?</p> <p>16 A. Yes.</p> <p>17 Q. I mean, that's the heart of your complaint in</p> <p>18 this case about the Union, that Ms. Stone, as</p> <p>19 president of the Union, turned you in, and that</p> <p>20 violated their duty of fair representation, fair?</p> <p>21 MR. PRYOR: Object to a legal conclusion</p> <p>22 as what the main point of her legal case is.</p> <p>23 THE COURT: Sustained.</p> <p>24 BY MR. McKEEBY:</p> <p>25 Q. Your claim against the Union is that they</p>

<p style="text-align: right;">Page 1370</p> <p>1 violated their duties to you by Ms. Stone turning 2 you in? 3 A. Yes. 4 Q. But it was okay for you to complain to 5 Southwest about other employees who you believe 6 violated the social media policy, was it not? 7 A. I did that one time. 8 MR. PRYOR: Objection, relevance. 9 I'm sorry, ma'am. 10 THE WITNESS: That's okay. 11 MR. PRYOR: Object to relevance, your 12 Honor. In limine issue. 13 THE COURT: Hold on just a second. 14 I will overrule. You can answer. 15 THE WITNESS: Okay. The person that I 16 actually wrote with a bunch of other flight 17 attendants was against Brian Talburt, and he had 18 made reference to executing employees, which either 19 meant harming them in a physical way or harming them 20 by turning them in and getting them fired. 21 MR. McKEEBY: And let's pull up Document 22 61. 23 BY MR. McKEEBY: 24 Q. This is the complaint that you are talking 25 about, correct?</p>	<p style="text-align: right;">Page 1371</p> <p>1 MR. PRYOR: Your Honor, first of all, is 2 this in evidence? 3 THE COURT: Sidebar. 4 (Thereupon, the following proceedings were 5 had at sidebar.) 6 THE COURT: So it's not in evidence. 7 I understand your last limine issue she 8 was talking about Southwest disciplines somebody, 9 but now we are getting into 61, which is her 10 complaint against Talburt. 11 So I know you had objections. 12 MR. PRYOR: I didn't ask for a sidebar. I 13 can't afford them. 14 Our objection is -- 15 THE COURT: I'm asking for this on my 16 time. 17 MR. PRYOR: I appreciate that. 18 THE COURT: This is a morning session 19 issue we didn't get to. Does that make sense? This 20 is one of the close calls from last night. 21 MR. PRYOR: We've raised these issues in 22 our limine. This is an issue from long ago. It is 23 not related to this case. 24 And she filed this as an objector because 25 she --</p>
<p style="text-align: right;">Page 1372</p> <p>1 THE COURT: Before that, it is time for 2 the morning break. Can I kick them out and then 3 have -- let's come back a couple of minutes early on 4 the 10-minute recess. 5 Can I ask you where in the limine ruling 6 we talked about this? Because I don't remember. 7 MR. PRYOR: I hope I can, Judge, but I 8 know that Mr. Gilliam can. 9 THE COURT: Okay. So tell him we will 10 come back in eight minutes. 11 MR. PRYOR: If I'm wrong, I apologize, but 12 I think it is there. 13 THE COURT: It's fine. We'll all look for 14 it. No problem. 15 (Thereupon, the sidebar was concluded and 16 the following proceedings were held in open 17 court.) 18 THE COURT: Okay. We are going to take 19 our morning break and talk about a legal issue right 20 quick. So let's do a 10-minute break. We will come 21 back at 10:50. 22 So remember the same instructions. You 23 can only talk to your fellow jurors and court 24 personnel just not about the case. Don't talk to 25 anyone else and don't do any research about the</p>	<p style="text-align: right;">Page 1373</p> <p>1 case. 2 We will see you in 10 minutes. 3 All rise. 4 (The jurors exited the courtroom.) 5 THE COURT: And you can leave the stand. 6 You can't talk to anyone about the case in the short 7 break. We will see you at 10:48 to talk about our 8 legal question. 9 All right. We are in recess. 10 (Recess.) 11 THE COURT SECURITY OFFICER: All rise. 12 THE COURT: Thank you. You can be seated. 13 Okay. So I asked to look into the limine 14 issue. I can tell you what my thoughts are on the 15 limine issue, but if you have a ready answer, 16 Mr. Gilliam, then you can lay it on me. 17 MR. GILLIAM: I honestly don't think that 18 it's in the limine itself. 19 THE COURT: I don't either. 20 MR. GILLIAM: But it is part of our 21 objections that we made last night to exhibits. 22 THE COURT: I will concur on that. 23 So let me tell y'all what I'm thinking on 24 61. 25 I'm thinking 61 stays out, and here is</p>

<p style="text-align: right;">Page 1374</p> <p>1 why. I'm trying to think of 61 in conjunction to 2 questions we had earlier on, for example, the equal 3 pay question. 4 The equal pay question came up in some of 5 the termination interviews. It came up in some of 6 the signs that would say "Equal pay, pro choice, my 7 body, my choice." 8 And so because that was information that 9 you could see from that stack of exhibits was before 10 Southwest since making the termination, then its 11 relevance is higher even if it was not one of the 12 stated grounds for the termination. So then 13 prejudice isn't going to outweigh the relevance. 14 Here I don't see in the materials I have 15 that this was information Southwest was looking at 16 when making the termination. If it was, its 17 relevance shoots up. 18 So I don't think its relevance is very 19 high. I think there is some prejudice there to 20 Carter if it comes in that outweighs whatever 21 marginal relevance there is. 22 Tell me if you think I'm wrong. 23 MR. McKEEBY: I think you are wrong. 24 THE COURT: Go for it. 25 MR. McKEEBY: Two reasons, your Honor.</p>	<p style="text-align: right;">Page 1375</p> <p>1 One is that they have suggested through 2 Ms. Stone and otherwise that the policy is 3 ambiguous, employees didn't understand it. 4 This shows that at least Ms. Carter 5 understood it well enough to report another 6 employee, A; and B, they have also suggested that -- 7 that the company at some level was in league or 8 colluded with the Union to exclude and target and 9 reprimand -- again, I understand that the limine 10 ruling eliminated the actual discipline, but that 11 has kind of -- has been stepped over, maybe not 12 intentionally in every case. 13 But -- but what the evidence will show on 14 Southwest's side is that, look, there were objectors 15 turning in union leaders and union leaders turning 16 in objectors, and at some point Southwest just threw 17 up their hands and said, We have got to assess these 18 cases on their merit. 19 So the fact that Ms. Carter turned in a 20 union supporter is relevant as to that theme. So I 21 think it should come in for that reason. 22 I also think it should come in to rebut 23 the notion that there is some ambiguity about the 24 social media policy that prevented Ms. Carter from 25 doing exactly what she did.</p>
<p style="text-align: right;">Page 1376</p> <p>1 MR. GREENFIELD: Your Honor, if I may. I 2 don't have a specific objection on this point other 3 than a slightly different take on the relevancy 4 issue. 5 Ms. Carter has consistently testified that 6 Southwest should never get involved in union 7 business. She is here turning in someone to 8 Southwest to get them involved in union business. 9 It goes to Ms. Carter's credibility, and 10 credibility is always relevant before the jury, your 11 Honor. 12 THE COURT: Response. 13 MR. GILLIAM: Yeah. As for Southwest's 14 response, I don't think that it really addresses 15 your point. In fact, I think that to the extent 16 their -- I think their relevance argument gets 17 into -- would have to get into matters of similarly 18 situated employee discipline that they themselves 19 limined. 20 As for Local 556's response, there is a 21 huge difference between a union president or other 22 union actor reporting a non-member objector or other 23 ordinary employee and an ordinary employee reporting 24 comments about a threat of execution or public 25 threat -- I'm sorry -- yeah, threat of public</p>	<p style="text-align: right;">Page 1377</p> <p>1 execution against recall supporters. 2 THE COURT: Understood. 3 MR. GREENFIELD: If I may, your Honor. 4 THE COURT: Briefly. 5 MR. GREENFIELD: Ms. Carter has never 6 equivocated about when, who, and what type of 7 complaint should not be interfered with by Southwest 8 Airlines, whether it was from herself, another union 9 member, or another union president. It goes to 10 credibility, your Honor. 11 THE COURT: I understand that argument. 12 So I haven't heard -- I hear the 13 arguments. I haven't heard anything that changes my 14 tentative ruling. So I will stick with my tentative 15 ruling and keep 61 out. 16 So I'm ruling on the record that 61 is 17 overly prejudicial, it lacks relevance. 18 So I think this is sufficient here, but if 19 you want to offer it again when the jury is in the 20 box, you can do that, just like I let Mr. Pryor do 21 that earlier, at trial. 22 MR. GREENFIELD: You Honor, may I have 23 some clarity a little bit more in-depth on this 24 topic? 25 I understand that the document is out. Is</p>

<p style="text-align: right;">Page 1378</p> <p>1 discussing Ms. Carter -- with Ms. Carter about 2 whether she turned anyone in for the social media 3 policy without going into specifics regarding 4 Mr. Talburt, is that acceptable? 5 MR. PRYOR: It is the same issue. 6 THE COURT: What are you asking for? 7 MR. PRYOR: It is the same issue. 8 MR. GILLIAM: Yeah, it is the same issue. 9 I don't think the issue is any different. So I 10 would say, yes, it is out. 11 THE COURT: But no one has moved for that 12 yet. So he just suggested you move for that. 13 Are you moving for that? 14 MR. GILLIAM: Yes. 15 THE COURT: Basically a limine point on 16 this issue. 17 MR. GILLIAM: So moved. 18 MR. GREENFIELD: Your Honor, I find this 19 different. This is exactly the bright line you've 20 drawn in your limine instructions, because we asked 21 for the same limine instructions that Southwest 22 requested on comparator evidence, et cetera. 23 It was granted for them and it was not for 24 us. Hence, the consistent instruction that goes to 25 you may consider this evidence against the Union but</p>	<p style="text-align: right;">Page 1379</p> <p>1 you may not consider this evidence against 2 Southwest. 3 So if all of those instances can be 4 considered against the Union, we also need to be 5 able to consider what Ms. Carter's actions were. 6 THE COURT: I understand that, but I don't 7 think there is a reason for separation here. That 8 separation for the evidence you are speaking of was 9 that it's not just not relevant to claims against 10 Southwest because there is no comparator claim. It 11 is just a direct discrimination claim. But it does 12 go to your duty of fair representation claim that 13 you have against the Union. 14 So I don't see the lack of congruence here 15 stemming from the claims. I just think it's not 16 relevant. It's overly prejudicial regarding both 17 parties. So I don't think it comes in to either 18 party. 19 So what I understand your request to be is 20 that it's not just the exhibit, it's the discussion 21 about it that should stay out. 22 MR. GILLIAM: Yes, your Honor. So moved 23 to keep out any testimony. 24 THE COURT: Okay. I mean, you know my 25 underlying rationale, but is there any argument</p>
<p style="text-align: right;">Page 1380</p> <p>1 Southwest or the Union wants to make that we should 2 allow discussion other than on the exhibit? 3 MR. GREENFIELD: Just not the specifics. 4 If we want to talk about the specifics about -- and 5 I think it's already come out. I think the door has 6 been opened and the jury has heard it, so I don't 7 know that we can put the cat back in the bag to a 8 certain extent. 9 But is it proper to inquire whether she 10 has made any complaints, period, against other 11 Southwest employees? Because, again, I think that 12 does go to rebut her previous testimony. 13 THE COURT: I recall previous testimony 14 covering no complaints were made against her. If 15 I'm wrong on that, someone can point me to the page 16 and line. 17 MR. PRYOR: We didn't raise this issue. 18 MR. GILLIAM: The only thing we have is 19 another complaint against her. There are no other 20 complaints that she's made. 21 THE COURT: Sure. So that wasn't my 22 recollection of the testimony. My recollection was: 23 Were there any complaints made against you? 24 Things that came up in the prior 25 testimony.</p>	<p style="text-align: right;">Page 1381</p> <p>1 MR. GREENFIELD: Your Honor, I guess I 2 don't understand then where the differentiation 3 occurs as to why they can talk about all the 4 different claims and issues that Brian Talburt, 5 again, just a rank-and-file member of the Union, and 6 what his actions were, those have been discussed at 7 length, versus what Ms. Carter's actions were. 8 THE COURT: That's correct. It's a 9 different relevance and a different prejudice 10 analysis. 11 Okay. So I will say this is a new limine 12 point, whatever limine we are under, to discuss, 13 about her prior complaints against other Southwest 14 employees. 15 I understand y'all don't like that, and so 16 I'll understand y'all as objecting to that. I'm 17 overruling those objections. 18 MR. McKEEBY: And I think, as a procedural 19 matter, I move for the admission of 61. And you are 20 overruling that, so I don't think I need to do 21 anything else, so I'm not going to do anything else. 22 THE COURT: Understood. 23 And I can say on the record when the jury 24 is back in, I sustained objections on 61. 25 Okay. Let's bring them in.</p>

<p style="text-align: right;">Page 1382</p> <p>1 (The jurors entered the courtroom.)</p> <p>2 THE COURT: Okay. You can be seated.</p> <p>3 I sustained that objection on Exhibit 61,</p> <p>4 so you can ask a new question, Mr. McKeeby.</p> <p>5 MR. McKEEBY: Can you pull 47 back up?</p> <p>6 BY MR. McKEEBY:</p> <p>7 Q. I know I asked you this question, but I don't</p> <p>8 think I got a response. If I did, I apologize. But</p> <p>9 I would ask again, was sending this message and this</p> <p>10 photograph to Ms. Stone an expression of your</p> <p>11 Christian beliefs?</p> <p>12 A. An expression of my Christian belief against</p> <p>13 the march, yes, and against who she was marching</p> <p>14 with. This is what they marched with. So yes.</p> <p>15 Q. So sending this photo to Ms. Stone was</p> <p>16 consistent with your Christian beliefs? Your</p> <p>17 position?</p> <p>18 A. Consistent with my Christian beliefs on this</p> <p>19 march, yes.</p> <p>20 Q. Let me go back to your accommodation claim here</p> <p>21 briefly.</p> <p>22 What is the accommodation that you are</p> <p>23 requesting or would have requested that Southwest</p> <p>24 make for you?</p> <p>25 A. I didn't know I had to make a request. This</p>	<p style="text-align: right;">Page 1383</p> <p>1 has become a back and forth between this request.</p> <p>2 I am a Christian. I stated it in my</p> <p>3 fact-finding meeting, I think several times. And</p> <p>4 then I stated, I think, in my second step meeting.</p> <p>5 Q. I understand. The jury wasn't at those, at</p> <p>6 those meetings, so I'm asking you -- I know I'm</p> <p>7 asking you to rehash issues that you've done on</p> <p>8 several occasions, and I can see how that could be</p> <p>9 tedious.</p> <p>10 But the jury hasn't heard all of that, and I</p> <p>11 think they need to hear what your request is of</p> <p>12 Southwest in terms of what it should have done to</p> <p>13 accommodate you and your religious beliefs.</p> <p>14 MR. PRYOR: Object, calls for a legal</p> <p>15 conclusion as well.</p> <p>16 THE COURT: I'll allow it.</p> <p>17 THE WITNESS: I stated I was a Christian.</p> <p>18 I was objecting to a march that my union had, and I</p> <p>19 believe under Title VII, it affords me to speak to</p> <p>20 that, and they did not give that to me. I didn't</p> <p>21 know I had to ask it.</p> <p>22 BY MR. McKEEBY:</p> <p>23 Q. Right. And you didn't ask it because you</p> <p>24 didn't know is your testimony, correct?</p> <p>25 A. That is correct.</p>
<p style="text-align: right;">Page 1384</p> <p>1 Q. And there is -- you've, I think, since</p> <p>2 discovered that there is a whole Southwest</p> <p>3 department that deals with accommodation issues</p> <p>4 called the ACT department?</p> <p>5 A. That's what I've heard through all of this and</p> <p>6 what I've understood. But then in testimony,</p> <p>7 everybody was saying it should have gone to employee</p> <p>8 relations. So I don't know if even Southwest knows</p> <p>9 who it's supposed to actually go to.</p> <p>10 MR. McKEEBY: Object as non-responsive.</p> <p>11 THE COURT: Sustained.</p> <p>12 MR. McKEEBY: And move to strike.</p> <p>13 THE COURT: Granted.</p> <p>14 So, jury, please disregard the last</p> <p>15 sentence that was said.</p> <p>16 BY MR. McKEEBY:</p> <p>17 Q. Isn't it a fact, Ms. Carter, that what you are</p> <p>18 asking in this case is that Southwest's policies not</p> <p>19 be applied to you?</p> <p>20 A. That is not what I said and that's not what I</p> <p>21 am -- policies that we had at Southwest Airlines and</p> <p>22 the line between the union and what I was talking to</p> <p>23 my union president about, Southwest Airlines should</p> <p>24 have stayed out of union business, and be dealt with</p> <p>25 within the union.</p>	<p style="text-align: right;">Page 1385</p> <p>1 Q. And Southwest Airlines should have not applied</p> <p>2 its policies to punish you for sending a fetus video</p> <p>3 to Ms. Stone, even if it did violate Southwest</p> <p>4 policies?</p> <p>5 MR. PRYOR: Object, compound.</p> <p>6 THE COURT: I'll allow it.</p> <p>7 THE WITNESS: It was union business. I'm</p> <p>8 going to just say it again.</p> <p>9 Southwest Airlines really had no business</p> <p>10 stepping in union activity. They would -- if I</p> <p>11 would have done this at a union meeting, exactly the</p> <p>12 same, Southwest Airlines has no right to punish or,</p> <p>13 you know, any policies.</p> <p>14 BY MR. McKEEBY:</p> <p>15 Q. To discipline you?</p> <p>16 A. Correct.</p> <p>17 Q. Your position is that Southwest did not have</p> <p>18 the right to discipline you for sending those</p> <p>19 abortion videos to a co-employee, Ms. Stone?</p> <p>20 A. To my union president, no, they did not have</p> <p>21 the right to do that.</p> <p>22 Q. So you acknowledge at least that sending the</p> <p>23 videos violated the policies, they just shouldn't</p> <p>24 have applied them to you. That's your position,</p> <p>25 correct?</p>

<p style="text-align: right;">Page 1386</p> <p>1 MR. PRYOR: Object, mischaracterizes her 2 testimony. 3 MR. McKEEBY: It's a question. 4 THE COURT: I will allow the question. 5 THE WITNESS: Ask it again. I'm sorry. 6 MR. McKEEBY: Can you read it back? 7 (Thereupon, the requested portion was read 8 back by the reporter as above recorded.) 9 MR. PRYOR: Same objection. 10 THE COURT: Overruled. You can answer. 11 THE WITNESS: The policies are workplace 12 policies. This was not done at the workplace and 13 this also had to do with the union activities. 14 So, no, Southwest Airlines, I always -- 15 when I was at work, always adhered to the policies 16 at work. These -- 17 BY MR. McKEEBY: 18 Q. The -- I'm sorry. I'm sorry. I thought you 19 were finished. Please finish. 20 A. Well, these policies, first of all, was not 21 done at work. Second of all, it was union business. 22 So, no, those policies should have not been -- 23 I guess I didn't break those policies at that time. 24 Q. Did you break any policies? 25 A. Not with my union president.</p>	<p style="text-align: right;">Page 1387</p> <p>1 Q. And so what should Southwest have done to 2 accommodate you? I don't understand. 3 A. First of all, they should have never called me 4 in. It should have been dealt with in the union. 5 Q. Let's talk about what you said about your 6 workplace, okay? 7 You were a flight attendant, correct? 8 A. Correct. 9 Q. So what was your workplace, the actual plane? 10 Is that what you are saying? 11 A. When I check in for my trip, okay, 30 minutes 12 prior to going to the gate, that is when I'm at 13 work. And until I clock out and leave that airport, 14 when I leave, once we -- the trip is done, and I 15 think it's 30 minutes after we leave the plane and 16 everything else -- I can't remember now, it's been 17 so long, it's been five years -- then I'm off the 18 clock. 19 Q. So by that it would have been a violation of 20 the workplace bullying and hazing policy for you to 21 send that video while you were on the plane, fair? 22 A. Still, again, no. That was to my union 23 president. No. I would have never sent those 24 things at work. I would never -- I mean, I didn't 25 have that kind of --</p>
<p style="text-align: right;">Page 1388</p> <p>1 Q. So it's not that you -- 2 A. I don't understand -- I guess I don't 3 understand where you are going with this question. 4 Q. Well, I'm trying to get an understanding of 5 what you mean by "workplace." And it sounds like 6 it's not so much that -- that you sent it off the 7 clock or off hours, but that you sent the messages 8 to the union president is your issue, fair? 9 MR. PRYOR: Object, mischaracterizes what 10 she just said. 11 THE COURT: I will allow her to answer. 12 THE WITNESS: Again, if I had not been an 13 objector, I could have taken this to a union 14 meeting. Southwest could have never done anything 15 to me, said anything to me. That's that line. 16 It's the same type of communication with 17 my union president. It just happened to be through 18 like an email or messenger. It was the same type of 19 communication that should have been kept within the 20 union compound. 21 BY MR. McKEEBY: 22 Q. And the reason it wasn't kept within the union 23 compound is because Ms. Stone reached out to 24 Southwest, fair? 25 A. Ms. Stone turned me in to Southwest. She</p>	<p style="text-align: right;">Page 1389</p> <p>1 should have kept this in the union realm. 2 Q. And what is Southwest supposed to do? 3 A. Stay out of it. 4 MR. PRYOR: Object, asked and answered. 5 THE COURT: Overruled. 6 BY MR. McKEEBY: 7 Q. I will give you a hypothetical. Your counsel 8 raised some hypothetical questions during his 9 examination of I think Ms. Stone. I'm going to give 10 one to you. 11 Is it your position that you had the right to 12 send the abortion videos to every dues-paying union 13 member, flight attendant at Southwest? 14 MR. PRYOR: Object, calls for a legal 15 conclusion. 16 THE COURT: I'll allow it. 17 THE WITNESS: The only person that I would 18 have ever sent that to would have been my union 19 president. I would have not sent that to any other 20 member, which I didn't do. And even the women 21 that -- the other ones that went, I didn't send it 22 to them. She led the march, she is the one who was 23 responsible for taking them all to DC. 24 BY MR. McKEEBY: 25 Q. I understand all of that.</p>

<p style="text-align: right;">Page 1390</p> <p>1 My question is a hypothetical. I know you 2 didn't do it. I'm not suggesting to the jury that 3 you sent it to anyone else other than Ms. Stone. 4 And you have testified to that. 5 My question is, if someone did that, let's say 6 it was someone else, some other union member, an 7 objector if you want, if that makes you more 8 comfortable, if they had sent that video to every 9 union-paying Southwest flight attendant, would that 10 have violated Southwest's policies? 11 MR. PRYOR: Object. It's a hypothetical 12 that's not the facts of this -- 13 THE COURT: You can come to sidebar if you 14 want. 15 MR. PRYOR: It's an improper hypothetical, 16 given what she just said. 17 THE COURT: That's a speaking objection. 18 You can come to sidebar if you want to speak. 19 MR. PRYOR: Object to improper 20 hypothetical. 21 THE COURT: Understood. 22 I will sustain that one. 23 MR. McKEEBY: Let me go to Exhibit 2. 24 BY MR. McKEEBY: 25 Q. Do you recognize this document?</p>	<p style="text-align: right;">Page 1391</p> <p>1 A. Yes, I do. 2 MR. McKEEBY: Move to admit Exhibit 2. 3 THE COURT: Any objections on 2? 4 MR. PRYOR: We object to the admission of 5 this document for relevance. And the -- if he wants 6 to ask her if it refreshes her recollection if she 7 says something inconsistent. But this is a legal 8 document. 9 THE COURT: Anything from the Union? 10 You can come to sidebar if you want. 11 MR. PRYOR: No, I'm fine. Can't afford 12 it. 13 THE COURT: Anything from the Union on 2? 14 MR. McKEEBY: I'm going to need a sidebar 15 if -- well, I might know if I'm going to need a 16 sidebar here briefly. 17 THE COURT: Call a sidebar. 18 (Thereupon, the following proceedings were 19 had at sidebar:) 20 MR. McKEEBY: This is an EEOC charge, 21 which is an administrative prerequisite -- I'm 22 sorry. 23 THE COURT: Go for it. 24 MR. McKEEBY: This is an EEOC charge, 25 which is an administrative prerequisite to her</p>
<p style="text-align: right;">Page 1392</p> <p>1 filing a suit. And so we have an issue of a 2 question of whether or not she properly exhausted 3 her administrative remedies as an affirmative 4 defense, given that she did not raise the 5 accommodation claim. 6 And secondly, it has language that -- 7 that's relevant to her claim. She talks about what 8 the basis of her claim is in that sworn document. 9 So I should be able to get into that. 10 MR. PRYOR: That's two completely 11 different issues. 12 The first one the Court has already ruled 13 on, and the exhaustion of administrative remedies, 14 that's not an issue for this jury. It's not an 15 issue that anyone has even submitted a question on. 16 The issue of whether or not there is 17 something in there factually that's inconsistent 18 with anything she said, if she says something 19 inconsistent, he can show it to her and talk to her 20 when he's laid that foundation. 21 But right now it's inadmissible. 22 THE COURT: So I get your point on my 23 prior rulings on exhaustion. My question is did 24 y'all make an objection? I didn't see an objection 25 last night to 2.</p>	<p style="text-align: right;">Page 1393</p> <p>1 MR. PRYOR: I didn't object, Judge, sorry, 2 but regards I'm raising it now. 3 I know that we have made this argument 4 before. Actually, I will refer to Mr. Gilliam in 5 that regard. We are raising it now if it hadn't 6 been raised before. I apologize if it wasn't. It 7 is still an appropriate objection. 8 THE COURT: So I've got the intention 9 here. But what I will say is this, I think failure 10 to exhaust is a legal question I've already ruled 11 on. 12 So to the extent you try to get into that, 13 it may cause me to have to clean it up with a jury 14 instruction on that for y'all. But you didn't 15 object last night to 2, so I'm going to let 2 in. 16 Does that make sense? 17 MR. PRYOR: Can I -- I don't know -- first 18 of all, let me just point out, I didn't ask for this 19 conference. And second, can I look and see what we 20 objected to last night? 21 I'm sure you're right, Judge, I just 22 didn't look at it. 23 THE COURT: You can look and see if you 24 objected. 25 MR. PRYOR: Give me two seconds and I'll</p>

<p style="text-align: right;">Page 1394</p> <p>1 just wave at you and say you're right as usual.</p> <p>2 THE COURT: We are keeping the sidebar on.</p> <p>3 The music is still one. We are taking</p> <p>4 down one thing at counsel table. We will be right</p> <p>5 back with you in a moment.</p> <p>6 (Thereupon, the sidebar was concluded and</p> <p>7 the following proceedings were held in open</p> <p>8 court:)</p> <p>9 THE COURT: So I will overrule the</p> <p>10 objections to Exhibit 2. They can come in on the</p> <p>11 terms that we discussed.</p> <p>12 (The referred-to document was admitted</p> <p>13 into evidence as Trial Exhibit 2.)</p> <p>14 THE COURT: Mr. McKeeby.</p> <p>15 MR. McKEEBY: So is it admitted?</p> <p>16 THE COURT: It is admitted into evidence.</p> <p>17 We are publishing.</p> <p>18 MR. PRYOR: We have a continuing</p> <p>19 objection.</p> <p>20 THE COURT: You may.</p> <p>21 MR. PRYOR: Thank you.</p> <p>22 BY MR. McKEEBY:</p> <p>23 Q. One question -- well, I shouldn't say that.</p> <p>24 A few questions about the document.</p> <p>25 MR. McKEEBY: Number 3, if you could pull</p>	<p style="text-align: right;">Page 1395</p> <p>1 that point up.</p> <p>2 BY MR. McKEEBY:</p> <p>3 Q. This is quite a statement, Ms. Carter. You</p> <p>4 indicate that your employer -- and I will let the</p> <p>5 Union ask you this question if they want to, but I'm</p> <p>6 interested in the contention about Southwest</p> <p>7 Airlines. You contend that the company supports</p> <p>8 abortion in this statement, correct?</p> <p>9 A. The company allowed their name to be on a</p> <p>10 banner at that march, and that's what I'm referring</p> <p>11 to.</p> <p>12 Q. How do you know that?</p> <p>13 A. Because I have pictures of it. And it was --</p> <p>14 Q. How do you know the company had anything to do</p> <p>15 with it? These flight attendants marched in</p> <p>16 Washington. Do you know if they asked for the</p> <p>17 company's permission to do that?</p> <p>18 A. No, I don't, but I would have figured that</p> <p>19 Southwest Airlines would have been pretty upset if</p> <p>20 that's the case. Did they reprimand those flight</p> <p>21 attendants?</p> <p>22 Q. That's not my question. Do you have any</p> <p>23 information to suggest that anyone at Southwest</p> <p>24 Airlines authorized those flight attendants to carry</p> <p>25 those banners?</p>
<p style="text-align: right;">Page 1396</p> <p>1 A. They carried it.</p> <p>2 Q. That's not my question, Ms. Carter. My</p> <p>3 question is --</p> <p>4 A. I have no idea. I have no idea. If they</p> <p>5 asked, I have no idea.</p> <p>6 Q. All right. You've answered my question --</p> <p>7 A. Okay.</p> <p>8 Q. -- and I will respectfully move on --</p> <p>9 A. Okay.</p> <p>10 Q. -- to some boring topics for just a minute.</p> <p>11 MR. McKEEBY: Let's go to Exhibit 42.</p> <p>12 THE COURT: This is in evidence, so the</p> <p>13 jury can see it.</p> <p>14 MR. McKEEBY: I don't think -- is 42 in?</p> <p>15 THE COURT: 42 is in. It came in earlier</p> <p>16 today.</p> <p>17 MR. McKEEBY: Okay.</p> <p>18 BY MR. McKEEBY:</p> <p>19 Q. I just want to walk you through this briefly.</p> <p>20 These reflect your earnings at Southwest?</p> <p>21 A. Uh-huh.</p> <p>22 Q. And would you agree with me that they reflect</p> <p>23 an average of about \$15,000 a year?</p> <p>24 A. Give or take, right, yes.</p> <p>25 Q. Okay. Give or take. So if it's for 2014 --</p>	<p style="text-align: right;">Page 1397</p> <p>1 well, go ahead. Let's read the exact amount.</p> <p>2 Do you know how to read these to know what your</p> <p>3 actual earnings at Southwest were for 2014?</p> <p>4 A. Well, I can't read it because I don't have my</p> <p>5 glasses.</p> <p>6 Q. Okay. If it says \$16,581, does that sound</p> <p>7 about right, in the ballpark?</p> <p>8 A. Yes. And this is what I was discussing with</p> <p>9 you about not being able to fly.</p> <p>10 Q. Right. I just didn't think we got it into</p> <p>11 evidence as cleanly as I might like it.</p> <p>12 I understand you don't have to and shouldn't</p> <p>13 care about my preferences.</p> <p>14 But let me walk through, the next page is for</p> <p>15 2015. And I read this to reflect a take-home pay of</p> <p>16 \$17,700, is that fair?</p> <p>17 A. That is correct.</p> <p>18 Q. And then finally, 2016, which -- first of all,</p> <p>19 that was your last full year of employment?</p> <p>20 A. '16?</p> <p>21 Q. 2016. You were terminated in the --</p> <p>22 A. Yeah.</p> <p>23 Q. -- spring of 2017?</p> <p>24 A. March '17.</p> <p>25 Q. So 2016 was the last year of your employment,</p>

<p style="text-align: right;">Page 1398</p> <p>1 correct?</p> <p>2 A. Yes.</p> <p>3 Q. And your take-home pay that year was \$18,598?</p> <p>4 A. Correct.</p> <p>5 Q. And this goes back to the issue that you raised</p> <p>6 with Mr. Pryor that you weren't working -- you can</p> <p>7 take those off -- you weren't working full-time.</p> <p>8 A. No, at that time I couldn't. My husband was --</p> <p>9 he was having to work more so on -- because I just</p> <p>10 couldn't trust him with my daughter being at home at</p> <p>11 that age.</p> <p>12 Q. And let me talk a little bit about your efforts</p> <p>13 to seek other employment.</p> <p>14 When you were -- I think you -- I don't</p> <p>15 remember -- I'm getting them mixed up, too, in terms</p> <p>16 of what you said today versus these other</p> <p>17 proceedings, so my apologies if I blur some of this.</p> <p>18 But there was something called Project Purpose</p> <p>19 that you were affiliated with in 2017?</p> <p>20 A. That's correct. And that's when I was in</p> <p>21 St. Louis. I homeschooled my daughter for the</p> <p>22 last -- well, it's now been nine years. She's</p> <p>23 graduated.</p> <p>24 But I had a program that I was actually</p> <p>25 implementing, and it had to do with the school</p>	<p style="text-align: right;">Page 1399</p> <p>1 systems in St. Louis and partly Aurora, Colorado, in</p> <p>2 some of the poorer school districts. And it was an</p> <p>3 after-school -- it started out as an after-school</p> <p>4 program, and we were partnering with some churches</p> <p>5 also in St. Louis.</p> <p>6 Q. And you actually started working for Project</p> <p>7 Purpose in January of 2017, before you left</p> <p>8 Southwest, correct?</p> <p>9 A. We started the project, but I wasn't working</p> <p>10 for them. I was writing -- I was actually getting</p> <p>11 the curriculum together for that.</p> <p>12 Q. Right. And this was -- and then you actually</p> <p>13 started working for them after your separation from</p> <p>14 Southwest Airlines, fair?</p> <p>15 A. Yeah. It became more of a -- yeah, it became</p> <p>16 more of a -- yeah. A job. Yes.</p> <p>17 Q. Right. But it was a not-for-profit in --</p> <p>18 well --</p> <p>19 A. Correct. It was a not-for-profit. We hadn't</p> <p>20 gotten our 501(c)(3) yet, so we were just actually</p> <p>21 scouting for who we were going to partner up with in</p> <p>22 St. Louis and partly Aurora, Colorado, in some</p> <p>23 schools and churches.</p> <p>24 Q. Right. And you did not receive a salary from</p> <p>25 Project Purpose for 2017?</p>
<p style="text-align: right;">Page 1400</p> <p>1 A. No, I did not. As a matter of fact, I spent</p> <p>2 money for that project.</p> <p>3 Q. And because you were involved in this Project</p> <p>4 Purpose, you did not -- you'd agree with me that you</p> <p>5 did not seek paying employment at all in 2017,</p> <p>6 correct?</p> <p>7 A. I had put out resumés, but resumés were just to</p> <p>8 the airlines, and then later on I got called by the</p> <p>9 airlines.</p> <p>10 Q. But that didn't happen in 2017, did it?</p> <p>11 A. No. No. Unfortunately.</p> <p>12 Q. That was later?</p> <p>13 A. Yes, it was later. I think it was in '18 when</p> <p>14 I started getting calls.</p> <p>15 Q. And you indicated that you submitted</p> <p>16 applications at four airlines?</p> <p>17 A. Uh-huh. At my husband's airline. He's a</p> <p>18 captain for Frontier. And then it was Jet Blue.</p> <p>19 Never heard from Jet Blue. And then Delta and</p> <p>20 United.</p> <p>21 Q. And I think you've indicated -- and I know this</p> <p>22 was in your deposition -- that you have done some</p> <p>23 Pilates instruction?</p> <p>24 A. Yes. That was later on. Yes.</p> <p>25 Q. How much, approximately, did you earn and over</p>	<p style="text-align: right;">Page 1401</p> <p>1 what period of time?</p> <p>2 A. Well, I finished class and COVID hit and they</p> <p>3 closed all of the Pilates studios.</p> <p>4 Q. Are you still doing that?</p> <p>5 A. I'm doing it, but it's only part-time, and it's</p> <p>6 mainly in my house. I have a Pilates studio in my</p> <p>7 home.</p> <p>8 Q. How much have you earned from that?</p> <p>9 Let's start with maybe 2021, how much did you</p> <p>10 earn, approximately?</p> <p>11 A. Well, '21 was pretty much a no-go because of</p> <p>12 COVID. I would say maybe 5, \$6,000. Maybe.</p> <p>13 Q. In 2022?</p> <p>14 A. No, not in '22. Well, '21 into '22. So give</p> <p>15 or take, it would be about, maybe, 5,000, maybe.</p> <p>16 That is a stretch.</p> <p>17 Q. I just want to make sure I understand. That's</p> <p>18 in 2021 or is that for both years?</p> <p>19 A. Well, it would be both years right now.</p> <p>20 Q. Am I right that since your separation from</p> <p>21 Southwest, other than the four airline applications</p> <p>22 that you've submitted, you have not applied for any</p> <p>23 other paying employment?</p> <p>24 A. No, I didn't. No, I didn't. There was another</p> <p>25 project, though. I don't know if you saw that. But</p>

<p style="text-align: right;">Page 1402</p> <p>1 it was called Divine Intervention, after Project 2 Purpose. 3 Q. I did see that. That's another not-for-profit 4 that you were associated with? 5 A. Yes. And we did -- we ended up -- it's 6 basically the same thing except that we -- there 7 were two partners. We branched off from what 8 Project Purpose was, and we were working with 9 actually several places in St. Louis. We weren't 10 really working again working in Aurora. 11 We did get our 501(c)(3), but there were some 12 issues with -- how should I put this? -- there were 13 some issues between what the two visions were and 14 they didn't coincide, and so I stepped away from 15 that. 16 And I spent money in that as well. 17 Q. You did not receive any income for -- 18 A. No. 19 Q. -- work at Divine Intervention? 20 A. No, I did not. 21 Q. I'm flipping through these pages. That's good 22 news for you. 23 Ms. Carter, do you regret your decision not to 24 accept Southwest's offer of reinstatement? 25 A. No, I don't, for the same reasons that I have</p>	<p style="text-align: right;">Page 1403</p> <p>1 explained. 2 Q. If Southwest wanted to get rid of you because 3 you were a union objector, does it make sense that 4 they would offer your job back? 5 A. I'm not sure, except the fact that I had 6 presented them with so much evidence. 7 Honestly, Mike Sims knows and we had talked 8 about this off the record. He said that Southwest 9 shouldn't have gotten involved in union business. 10 Q. And -- 11 A. He used to be in the union. He was one of -- 12 he actually worked in the union at one point. 13 Q. I understand that. 14 But my question for you is, why would Southwest 15 have offered you a job back if it was trying to 16 target you and get rid of you because you were an 17 objector? 18 MR. PRYOR: Object, just asked and 19 answered. 20 MR. McKEEBY: I didn't get an answer. 21 THE COURT: I will allow this question to 22 be answered. 23 THE WITNESS: Honestly, I think they knew 24 that they had messed up and that they were going to 25 make sure that I stayed quiet about it.</p>
<p style="text-align: right;">Page 1404</p> <p>1 BY MR. McKEEBY: 2 Q. And the same question about your religious 3 beliefs. If Southwest had some objection to your 4 religious beliefs, why would they have offered you a 5 job back? 6 A. Again, I think they knew they had messed up and 7 they wanted -- they didn't want me to talk about it 8 at all. 9 Q. So instead -- 10 A. And you can tell, they were taking away my 11 right to come back and sue them for this. 12 Before I signed this, I read over it and over 13 it and over it. There was a point that I did think 14 that I was going to take it. But, again, I talked 15 to Beth Ross, and Beth Ross said, This is an 16 egregious settlement and, you know, other people are 17 getting turned in, Charlene. 18 So I -- I -- my personal feeling was I'm going 19 to get targeted again and I'm going to lose my job, 20 and then I won't have any recourse. 21 MR. McKEEBY: Pass the witness. 22 THE COURT: Thank you, Mr. McKeeby. 23 Okay. Mr. Greenfield, you may question 24 the witness. 25</p>	<p style="text-align: right;">Page 1405</p> <p>1 CROSS-EXAMINATION 2 BY MR. GREENFIELD: 3 Q. Good afternoon, Ms. Carter. 4 A. Good afternoon. 5 Q. Do you recognize who I am? 6 A. Yes, I do. 7 Q. Who am I? 8 A. You are Adam Greenfield. 9 Q. Okay. And what is my job? 10 A. You are representing the Union. 11 Q. Yes, ma'am. Yes, ma'am, I do so proudly. 12 Your case has been going on for a handful of 13 years at this point, is that fair? 14 A. Yes, it has, five, a little over five. 15 Q. So we've had the opportunity to meet each 16 other? 17 A. Yeah. The first time I met you was coming in 18 to court. We were talking about your cute socks. 19 Q. I remember the exact day. And you and I 20 believe Ms. Dawn Juan were putting on your shoes. 21 A. Yes. They were Christmas socks. 22 Q. Yes, ma'am. 23 And how would you describe our interactions, 24 you and I? 25 A. You're an attorney and I'm the plaintiff.</p>

<p style="text-align: right;">Page 1406</p> <p>1 Q. Fair to say we are cordial?</p> <p>2 A. Yes.</p> <p>3 Q. And you were even kind enough earlier this week</p> <p>4 to ask me about my family, when you knew we had had</p> <p>5 some troubles earlier this week, is that right?</p> <p>6 A. Of course.</p> <p>7 Q. Pretty surface-level conversations, though, is</p> <p>8 that fair?</p> <p>9 A. Yes.</p> <p>10 Q. Okay.</p> <p>11 Now, over the next couple of days, this</p> <p>12 afternoon and tomorrow, you and I are going to talk</p> <p>13 about some pretty heavy things, okay?</p> <p>14 A. Uh-huh.</p> <p>15 Q. Personal things. Things that many of us are</p> <p>16 very passionate about, okay?</p> <p>17 A. Uh-huh.</p> <p>18 Q. I will make a promise to you, right here, that</p> <p>19 I will remain respectful and cordial during that</p> <p>20 time because we are going to be talking about</p> <p>21 personal stuff, okay?</p> <p>22 A. Okay.</p> <p>23 Q. Can we try and do the same thing?</p> <p>24 A. Uh-huh.</p> <p>25 Q. Can I have that agreement?</p>	<p style="text-align: right;">Page 1407</p> <p>1 A. Of course.</p> <p>2 Q. Okay. Thank you very much.</p> <p>3 While I was sitting at counsel table, I heard</p> <p>4 several times you describe Local 556 as "my union"</p> <p>5 and the president as "my president" and doing things</p> <p>6 like working through "my union."</p> <p>7 But you weren't a union member, correct?</p> <p>8 A. I was an objector.</p> <p>9 Q. Okay.</p> <p>10 A. Still paid union dues.</p> <p>11 Q. Yes, ma'am.</p> <p>12 And you were an objector as of 2013?</p> <p>13 A. That is correct.</p> <p>14 Q. Okay.</p> <p>15 And as an objector, you gave up your rights to</p> <p>16 go to membership meetings, correct?</p> <p>17 A. Correct.</p> <p>18 Q. And you also gave up your right to vote for the</p> <p>19 executive boards and the political offices that were</p> <p>20 changing, is that correct?</p> <p>21 A. That's correct. But our vote had been taken</p> <p>22 away so many times.</p> <p>23 Q. Yes, ma'am. And my question was just a little</p> <p>24 bit different. But nonetheless, you gave up that</p> <p>25 right to vote?</p>
<p style="text-align: right;">Page 1408</p> <p>1 A. That is correct.</p> <p>2 Q. Okay. I would like to, before we get to</p> <p>3 anything big, talk a little bit about some of the</p> <p>4 stuff that Mr. McKeeby just left off talking about,</p> <p>5 talking about some of the efforts you made after</p> <p>6 your termination to get back to work, et cetera.</p> <p>7 Okay?</p> <p>8 A. Uh-huh.</p> <p>9 Q. Well, even let's jump -- I take that back.</p> <p>10 Let's jump to before you were terminated.</p> <p>11 A. Okay.</p> <p>12 Q. You were homeschooling your daughter, is that</p> <p>13 correct?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And what did that schedule look like?</p> <p>16 A. We were usually doing it about four hours a</p> <p>17 day. Homeschooling is a lot different than sending</p> <p>18 your child to a regular school. We had a little</p> <p>19 community that we did it with, and then my husband</p> <p>20 also helped out with homeschooling.</p> <p>21 Q. And what was your responsibility in that</p> <p>22 homeschooling process?</p> <p>23 A. Well, with her it was pretty easy. I mean, we</p> <p>24 had everything laid out the night before. The</p> <p>25 curriculum that I used was very, very already set.</p>	<p style="text-align: right;">Page 1409</p> <p>1 So she knew which booklets that she would need for</p> <p>2 the day and which videos that she would need for the</p> <p>3 day and so forth.</p> <p>4 And then once a week we met as a community.</p> <p>5 Q. Yes, ma'am. I'm a product of a small</p> <p>6 Montessori school, growing up here, so I understand</p> <p>7 what you speak of.</p> <p>8 How many days a week were you in charge of her</p> <p>9 homeschooling?</p> <p>10 A. Well, I mean, I was home. But not -- not</p> <p>11 really in charge per se, because we had laid</p> <p>12 everything out for the week on Sunday.</p> <p>13 So there was a Monday folder, or a Monday --</p> <p>14 what I would consider not a folder, but like a --</p> <p>15 something that she had all of her stuff already in.</p> <p>16 Tuesday, Wednesday -- we only did four days of</p> <p>17 class and then we had our fifth day at our</p> <p>18 community.</p> <p>19 Q. So four days of class and then a fifth day with</p> <p>20 the rest of the group?</p> <p>21 A. Correct. She had -- I mean, those were her</p> <p>22 responsibilities. So I set everything out pretty</p> <p>23 much on Sunday.</p> <p>24 Q. Uh-huh.</p> <p>25 A. And then if she had questions, she would either</p>

<p style="text-align: right;">Page 1410</p> <p>1 ask her daddy or she would call me.</p> <p>2 Q. Yes.</p> <p>3 A. When I was flying, she would -- when I did fly,</p> <p>4 she did do those things. Because Daddy usually</p> <p>5 didn't know.</p> <p>6 Q. Yes, ma'am.</p> <p>7 And I will stop beating around the bush at this</p> <p>8 point. I just want to know if that impacted the</p> <p>9 amount of time you spent flying before you were</p> <p>10 terminated?</p> <p>11 A. No, it didn't. It didn't.</p> <p>12 Let me explain something. My husband is a</p> <p>13 pilot, and so how we had structured it at the very</p> <p>14 beginning is that because of my seniority in Denver,</p> <p>15 I would fly either two days -- because I could bid</p> <p>16 for those things or trade down to that or trip trade</p> <p>17 with people -- I could fly a two-day or turns. And</p> <p>18 turns would have been perfect for me, except that I</p> <p>19 would have to fly evening turns, for the most part,</p> <p>20 and that is when everything kind of fell apart for</p> <p>21 my husband.</p> <p>22 Let me just give you a little heads-up on that.</p> <p>23 Q. If you can be brief, because I didn't exactly</p> <p>24 ask. I want to give you an opportunity --</p> <p>25 A. He had just gotten out of an 18-month program.</p>	<p style="text-align: right;">Page 1411</p> <p>1 He's finally taken the steps to get well. So I was</p> <p>2 dealing with all of that.</p> <p>3 Q. I understand. I commend his efforts.</p> <p>4 A. I do too.</p> <p>5 Q. Alcohol addiction is a lifelong journey. I</p> <p>6 understand that as well.</p> <p>7 I'm just trying to be fair to you, so I just</p> <p>8 wanted to know what was impacting -- because I have</p> <p>9 heard testimony or I have heard discussions that you</p> <p>10 weren't flying that much, that you were --</p> <p>11 A. Correct. But that -- homeschooling had nothing</p> <p>12 to do with --</p> <p>13 Q. Thank you. I will move on from it then.</p> <p>14 A. Okay.</p> <p>15 Q. Now, we heard about Project Purpose.</p> <p>16 A. Uh-huh.</p> <p>17 Q. And your position there was the educational</p> <p>18 director, correct?</p> <p>19 A. Correct.</p> <p>20 Q. Okay. And you were also the educational</p> <p>21 director at Divine Intervention, is that correct?</p> <p>22 A. Correct.</p> <p>23 Q. And as the educational director, you were there</p> <p>24 to -- well, at Divine Intervention, you were</p> <p>25 actually trying to implement an actual academy</p>
<p style="text-align: right;">Page 1412</p> <p>1 school, correct?</p> <p>2 A. Correct.</p> <p>3 Q. And you were putting together all of the</p> <p>4 curriculum?</p> <p>5 A. The curriculum actually from what I had</p> <p>6 already.</p> <p>7 Q. Uh-huh.</p> <p>8 A. We were implementing pretty much what I had</p> <p>9 used.</p> <p>10 Q. Okay.</p> <p>11 A. Because it was going to be more of a</p> <p>12 homeschool-type environment at this academy.</p> <p>13 And just let me tell you where this academy</p> <p>14 was. It was in the north side of St. Louis, near</p> <p>15 Ferguson.</p> <p>16 Q. Ms. Carter, I do appreciate all of that. As</p> <p>17 you have heard from all of the attorneys, we are</p> <p>18 under a bit of a time frame.</p> <p>19 A. Okay. Yes. I did put it all together, though,</p> <p>20 yes.</p> <p>21 Q. Thank you. Thank you.</p> <p>22 And you got together all of the structure so</p> <p>23 you could train the teachers, correct?</p> <p>24 A. Uh-huh, yeah. It was everything was together.</p> <p>25 Q. Now, Ms. Carter, on your first day of</p>	<p style="text-align: right;">Page 1413</p> <p>1 testimony, we heard a little bit about your</p> <p>2 background and your education.</p> <p>3 Do you have a teaching certificate yourself?</p> <p>4 A. No. You don't have to have a teaching</p> <p>5 certificate, though, to homeschool.</p> <p>6 Q. I didn't say you did. I'm just asking if you</p> <p>7 had one.</p> <p>8 A. No, I do not have a teaching certificate.</p> <p>9 Q. Do you have a bachelor's in education?</p> <p>10 A. No, I do not.</p> <p>11 Q. Are you a registered substitute teacher?</p> <p>12 A. I used to substitute years ago. Yes, I did.</p> <p>13 Q. Very good. Many years ago you substitute</p> <p>14 taught?</p> <p>15 A. Yeah, I did a lot when my little boy -- my son</p> <p>16 was a little boy.</p> <p>17 Q. I did it for half a year, and I found out that</p> <p>18 middle-schoolers are terrorists.</p> <p>19 I recommend it to nobody.</p> <p>20 A. I had little ones.</p> <p>21 Q. Okay. All right.</p> <p>22 Ms. Carter, I would like to walk through the</p> <p>23 claims you are bringing against the Union. I want</p> <p>24 you, me, and the jury to all be on the same page so</p> <p>25 we can actually talk about what this case is about.</p>

<p style="text-align: right;">Page 1414</p> <p>1 Is that all right?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. You have a claim against the Union for a</p> <p>4 breach of fiduciary duty. Is that correct?</p> <p>5 A. Correct.</p> <p>6 Q. And how did the Union do that? How did we</p> <p>7 breach our duty to you?</p> <p>8 A. By turning me in to the company.</p> <p>9 Q. Okay. So the moment Audrey Stone turned you</p> <p>10 in, the Union breached our duty, is that right?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. But we didn't breach it at the</p> <p>13 fact-finding meeting, correct?</p> <p>14 MR. PRYOR: Object to the extent it calls</p> <p>15 for -- it does call for a legal conclusion as to</p> <p>16 whether or not it was breached by the turning in is</p> <p>17 a fact of the fact-finding.</p> <p>18 THE COURT: I will allow her to answer if</p> <p>19 she has a basis to do so.</p> <p>20 BY MR. GREENFIELD:</p> <p>21 Q. Do you believe we breached the duty in our</p> <p>22 representation of you at the fact-finding meeting?</p> <p>23 A. Not Chris Sullivan, but the Union, yes.</p> <p>24 Because I should have never had to go into that</p> <p>25 fact-finding meeting.</p>	<p style="text-align: right;">Page 1415</p> <p>1 Q. Yes, ma'am. I understand that you believe none</p> <p>2 of the following should have ever happened. I just</p> <p>3 want to -- I just want to talk to you about what the</p> <p>4 Union's role was at that point. Is that all right?</p> <p>5 Can we talk about that?</p> <p>6 A. Yes. But the Union breached all of it. I'm</p> <p>7 going to say it.</p> <p>8 Q. The Union breached all of it?</p> <p>9 A. Yes.</p> <p>10 Q. So you believe we did not properly represent</p> <p>11 you at your fact-finding meeting, is that your</p> <p>12 testimony?</p> <p>13 MR. PRYOR: Object, asked and answered.</p> <p>14 THE COURT: I'll allow it.</p> <p>15 THE WITNESS: Chris Sullivan represented</p> <p>16 me in that fact-finding meeting. Yes, he did.</p> <p>17 BY MR. GREENFIELD:</p> <p>18 Q. Okay. And you chose Mr. Sullivan to represent</p> <p>19 you?</p> <p>20 A. I did.</p> <p>21 Q. And the Union said, Yes, Mr. Sullivan can</p> <p>22 represent you at your fact-finding meeting, correct?</p> <p>23 A. I don't know if he asked the Union. I</p> <p>24 didn't -- I asked him to represent me. From there I</p> <p>25 don't know what he did.</p>
<p style="text-align: right;">Page 1416</p> <p>1 Q. Nevertheless, he represented you?</p> <p>2 A. That is correct.</p> <p>3 Q. And you thought he did an excellent job?</p> <p>4 A. Chris did a great job.</p> <p>5 Q. Okay.</p> <p>6 And then at the Step 2 hearing, the Union</p> <p>7 provided you representation there as well, correct?</p> <p>8 MR. PRYOR: Object. Continuing objection</p> <p>9 on the Step 2.</p> <p>10 THE COURT: Understood. I will give you a</p> <p>11 continuing objection.</p> <p>12 I will overrule it and you can answer the</p> <p>13 question.</p> <p>14 THE WITNESS: Okay.</p> <p>15 I had Becky Parker and Beth Ross at my</p> <p>16 side. I prepared everything for the second step,</p> <p>17 neither one of them did the leg work. They were</p> <p>18 there sitting, one taking notes and the other one at</p> <p>19 the very end pleading for my job.</p> <p>20 BY MR. GREENFIELD:</p> <p>21 Q. Okay. And did you select either Beth Ross or</p> <p>22 Becky Parker to represent you at the Step 2 meeting?</p> <p>23 A. No, I didn't. It was -- I think that once I</p> <p>24 got into the process, it was just somebody reached</p> <p>25 out, or I -- I don't know how all of that started,</p>	<p style="text-align: right;">Page 1417</p> <p>1 to be quite honest with you.</p> <p>2 I had never used the Union before, so you are</p> <p>3 going to have to forgive me on some of the memory as</p> <p>4 well.</p> <p>5 Q. I understand. Yes, ma'am.</p> <p>6 And you felt they represented you fairly and</p> <p>7 competently, is that correct?</p> <p>8 A. Beth did a really good job. She couldn't</p> <p>9 figure out why I was there, though, because it was</p> <p>10 the union president that turned me in.</p> <p>11 Q. Okay. I appreciate that. My question was a</p> <p>12 little bit different. My question was --</p> <p>13 A. I know. And I said yes, she represented me.</p> <p>14 Q. Thank you, ma'am.</p> <p>15 And at the end of that Step 2 hearing, your</p> <p>16 termination was reduced to a 30-day suspension?</p> <p>17 A. That is correct.</p> <p>18 Q. Time served?</p> <p>19 A. Correct.</p> <p>20 Q. But with the 24-month probation letter,</p> <p>21 correct?</p> <p>22 A. There was a lot more than just the 24-month</p> <p>23 probation letter.</p> <p>24 Q. But you took issue with that?</p> <p>25 A. That is one of the issues, yes.</p>

<p style="text-align: right;">Page 1418</p> <p>1 Q. But we heard today that even if that was 2 reduced to 18 months, you still would not have 3 accepted, correct? 4 A. No, I would not have. 5 Q. Okay. So just so we're clear, are you claiming 6 now that there was a breach of your -- of our duty 7 to you at the fact-finding meeting? 8 A. A breach? 9 MR. PRYOR: Object, your Honor. He asked 10 that question already, and she's answered it. To 11 now look for a different answer -- 12 THE COURT: I think the answer is clear 13 enough now. 14 MR. McKEEBY: I'm not clear because I 15 think I heard two different answers. That's why I'm 16 asking again. 17 THE COURT: Last time. 18 You can answer. 19 MR. PRYOR: I'd also object it calls for a 20 legal conclusion, asked and answered. She's told 21 him the breach. 22 THE COURT: I will overrule and you can 23 answer this last time. 24 THE WITNESS: Chris did a very good job 25 representing me, Chris Sullivan.</p>	<p style="text-align: right;">Page 1419</p> <p>1 Again, he believed that I shouldn't have 2 been there because he knew who turned me in. 3 BY MS. GREEN: 4 Q. Yes, ma'am, I understand what your recollection 5 of that conversation with Mr. Sullivan is. 6 My question is a little bit different. My 7 question is, do you believe the Union breached our 8 duty to you in our representation at the 9 fact-finding meeting? 10 MR. PRYOR: Your Honor, this has been 11 asked and answered. She's going to -- how many 12 times does she have to explain? 13 THE COURT: Hold on, Counsel. That's a 14 speaking objection. 15 I will sustain it at this point in time. 16 BY MR. GREENFIELD: 17 Q. Okay. In regard to the Step 2 hearing, do you 18 believe that the Union breached their duty in our 19 representation of you at the Step 2 hearing? 20 MR. PRYOR: Asked and answered twice. 21 He's recovering the same -- 22 THE COURT: That was his last time. 23 THE WITNESS: I just told you that I did 24 all of the preparation of everything that I 25 submitted to Mike Sims. Beth was to my right. She</p>
<p style="text-align: right;">Page 1420</p> <p>1 was actually taking notes. Becky Parker was to my 2 left. 3 The only time Becky Parker said anything 4 was at the very end of the meeting, I do believe, 5 and that was to plead for my job. 6 I did most, 99 percent of the pleading in 7 my second step meeting. 8 So breach shouldn't have been there in the 9 first place. 10 Were they there sitting there to represent 11 me? Yes. 12 MR. GREENFIELD: Okay. And I apologize to 13 do this, but I will have to object to 14 non-responsiveness and move to strike the testimony. 15 I asked her a very simple question about the breach 16 and she's talking about something else. 17 THE COURT: I will reject your request to 18 strike as non-responsive. 19 BY MR. GREENFIELD: 20 Q. Yes or no, Ms. Carter, do you believe the Union 21 breached their duty to you in our representation at 22 the Step 2 hearing? 23 MR. PRYOR: Object, asked and answered. 24 Object to instructing a witness to answer a question 25 under oath, especially --</p>	<p style="text-align: right;">Page 1421</p> <p>1 THE COURT: I'll allow it. 2 THE WITNESS: The whole representation, it 3 was a breach of duty of fair representation. 4 BY MR. GREENFIELD: 5 Q. So that's a yes to my question, we did breach 6 in our representation? 7 A. Yes, you did. 8 Q. And we breached, and Ms. Stone, you believe, 9 breached that duty when she turned you in, right? 10 A. President Stone? Yes, I do. 11 Q. Yes, I understand her to be the president. We 12 have multiple presidents, and she's no longer, so 13 I'm going to call her Ms. Stone. 14 The current president is who, ma'am? 15 A. Used to be a friend of mine, Lyn Montgomery. 16 Q. Is she no longer the president of the Union? 17 A. No, she's still in it. 18 Q. She's just no longer a friend of yours? 19 A. Well, I don't see her. I mean, I'm not -- I 20 don't get to talk to her anymore. 21 Q. Okay. Well, I apologize. I refer to her as 22 President Montgomery because I represent the Union 23 still, so that is why I refer to Audrey Stone or 24 President Stone as Ms. Stone. 25 But I will reflect to the jury, I understand</p>

<p style="text-align: right;">Page 1422</p> <p>1 that you believe her to be President Stone, okay?</p> <p>2 A. Uh-huh.</p> <p>3 Q. All right.</p> <p>4 You believe you can say whatever you want to a</p> <p>5 union member, isn't that correct?</p> <p>6 A. You just said union member.</p> <p>7 Q. Yes, ma'am.</p> <p>8 A. Union president or --</p> <p>9 Q. I'm asking --</p> <p>10 A. -- or a board?</p> <p>11 Q. I apologize. I didn't mean to speak over you.</p> <p>12 I asked you just about a union member.</p> <p>13 You believe you can say whatever you want to a</p> <p>14 fellow union member, isn't that correct? Without</p> <p>15 reprisal?</p> <p>16 A. When it's speaking about union business, yes.</p> <p>17 Q. And there is no limit to that, correct?</p> <p>18 A. There never has been even within our union</p> <p>19 meetings. It can get heated, things are -- you</p> <p>20 know, words are said. Have you ever been to a union</p> <p>21 meeting? Because they are pretty, pretty intense.</p> <p>22 Q. Ma'am, it's my day to ask questions, and you've</p> <p>23 had a lot of time to dispute --</p> <p>24 A. Well, they can be pretty intense.</p> <p>25 Q. But I will --</p>	<p style="text-align: right;">Page 1423</p> <p>1 A. And yes, we can say whatever we want in those</p> <p>2 union meetings.</p> <p>3 So, yes, I do believe I can say what I need to</p> <p>4 say to my union when it has to do with union</p> <p>5 activities.</p> <p>6 Q. But you weren't allowed to go to union</p> <p>7 meetings, were you? You gave up that right,</p> <p>8 correct?</p> <p>9 A. That is correct. But I didn't give up my voice</p> <p>10 to speak to the president or the executive board.</p> <p>11 Q. I understand, ma'am. That was not my question.</p> <p>12 A. Okay.</p> <p>13 Q. I just asked if you gave up your right to go to</p> <p>14 those meetings?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. And you also believe there is no limits</p> <p>17 on what you can say to a union president, correct?</p> <p>18 A. When it has to do with union business, that is</p> <p>19 correct.</p> <p>20 Q. No restraints?</p> <p>21 A. Never has been.</p> <p>22 Q. Okay.</p> <p>23 I would like to talk about your claims of</p> <p>24 retaliation under the Railway Labor Act.</p> <p>25 A. Uh-huh.</p>
<p style="text-align: right;">Page 1424</p> <p>1 Q. That's one most people don't hear every day.</p> <p>2 What is your basis for your belief that we</p> <p>3 retaliated against you in violation of the Railway</p> <p>4 Labor Act?</p> <p>5 MR. PRYOR: Object, calls for a legal</p> <p>6 conclusion, your Honor.</p> <p>7 THE COURT: I will allow her to answer if</p> <p>8 she has a factual basis to do so.</p> <p>9 THE WITNESS: The Railway Labor Act gives</p> <p>10 us the right to not have the company get involved in</p> <p>11 any union business. It also has for us, we have</p> <p>12 actually a Bill of Rights, and the first one is</p> <p>13 freedom of speech, and that has also got to do with</p> <p>14 the Railway Labor Act.</p> <p>15 Everything that they do within the</p> <p>16 confines of the union is protected against the</p> <p>17 company.</p> <p>18 So that's how I understand it, and that's</p> <p>19 how it had always been before, and there is a line</p> <p>20 between the company and the Union when it comes to</p> <p>21 union business.</p> <p>22 BY MR. GREENFIELD:</p> <p>23 Q. Okay. So --</p> <p>24 A. That protects it, the Railway Labor Act</p> <p>25 protects that.</p>	<p style="text-align: right;">Page 1425</p> <p>1 Q. Yes, ma'am. I understand that is your -- we</p> <p>2 have now laid out your belief of what the act</p> <p>3 covers, is that fair?</p> <p>4 A. Yes. I know there is more to it, but yes.</p> <p>5 Q. Sure. There is plenty to it, and I'm an</p> <p>6 attorney. I have to look at it myself to know</p> <p>7 exactly what is in there.</p> <p>8 But to be fair, to simplify it for the jury,</p> <p>9 you believe the Union retaliated against you because</p> <p>10 you were an objector, correct?</p> <p>11 A. Yes, because they were turning objectors in.</p> <p>12 Q. Okay. And you believe the Union was</p> <p>13 retaliating against you because you were a recall</p> <p>14 supporter, is that correct?</p> <p>15 A. Yes. And that's again -- they were going after</p> <p>16 us recallers, yes.</p> <p>17 Q. I understand.</p> <p>18 And again you say "we recallers."</p> <p>19 You were not actually able to -- well, let me</p> <p>20 ask you, did you sign the recall petition, ma'am?</p> <p>21 A. No, but I supported it and was very vocal about</p> <p>22 it.</p> <p>23 Q. And you had given up your rights to recall?</p> <p>24 A. I didn't sign it, but I still didn't give up my</p> <p>25 right to speak about it.</p>

<p style="text-align: right;">Page 1426</p> <p>1 Q. Ma'am, I understand that. At no point will you 2 hear me represent that you gave up your rights to 3 dissent against the Union. You have my word, okay? 4 A. Uh-huh. 5 Q. My question is whether -- I'm trying to 6 understand the basis. 7 So we have that you believe the Union 8 retaliated against you because you are an objector, 9 right? 10 A. Yes. 11 Q. And because you were a recall supporter? 12 A. Correct. 13 Q. Is there any other basis? 14 MR. PRYOR: Object, calls for a legal 15 conclusion. 16 THE COURT: I'll allow it. 17 THE WITNESS: Is there any other basis? 18 BY MR. GREENFIELD: 19 Q. Yes, ma'am. 20 A. I know that the big contention back then was 21 signing of the contract, and the people that were 22 against the contract were ridiculed as well. And 23 there were some heated arguments regarding that as 24 well. 25 Q. Okay. So being an objector, being a recall</p>	<p style="text-align: right;">Page 1427</p> <p>1 supporter, and opposing the signing of the first 2 tentative agreement. 3 A. Yes. 4 MR. PRYOR: Object, calls for a legal 5 conclusion, mischaracterizes testimony, and fails to 6 include what she mentioned earlier in the 7 deposition -- or in the testimony. 8 THE COURT: It's a question, so I will 9 allow her to answer. 10 BY MR. GREENFIELD: 11 Q. Am I missing anything other than those three 12 things of how you believe the Union retaliated 13 against you? 14 A. The Union retaliated against me by turning me 15 in to the company and getting me fired. 16 Q. Yes, ma'am. I think we all understand that at 17 this point. I'm just -- 18 A. So I'm not understanding -- I'm not 19 understanding more of your question. 20 Q. Great. Perfect. I ask bad questions, I will 21 ask plenty more as we talk. So I will try and back 22 that up and rephrase it for us. 23 I'm trying to understand your beliefs about 24 why. I know that you believe turning you in, okay? 25 A. Well, in my Christian rights, too, my Title VII</p>
<p style="text-align: right;">Page 1428</p> <p>1 rights. 2 Q. Sure. And we will get to that. We will get to 3 that. I just want to talk about the RLA 4 specifically. Okay? 5 Is there anything else other than we retaliated 6 against you -- that you allege Ms. Stone turned you 7 in because you were an objector, right? 8 A. Oh, yeah. 9 Q. A recall supporter? 10 A. Yes. 11 Q. And because you oppose signing of the contract? 12 A. Those are some of the issues, yes. 13 Q. Are there any other ones? I just want the jury 14 to have a full understanding. Are there any other 15 issues? 16 A. Well, the other issues -- 17 MR. PRYOR: Wait. Object, asked and 18 answered. She mentioned others, and now they are 19 going back and adding some and taking some out -- 20 THE COURT: Hold on. That's a speaking 21 objection. 22 MR. PRYOR: Sorry. 23 THE COURT: I will allow her to answer the 24 question. 25</p>	<p style="text-align: right;">Page 1429</p> <p>1 BY MR. GREENFIELD: 2 Q. Ms. Carter, I'm not trying to trick you. I 3 just want -- 4 A. No, no, no. It's okay. But I don't -- you 5 know, I know that there is a complaint out there. I 6 don't know what all is listed because I haven't read 7 it in a long time. 8 But I will tell you this. I was objecting to 9 everything that they were spending my money on and I 10 didn't align with their political beliefs. 11 I do know that they had sent me who to vote 12 for, which I think is a private thing for each 13 member instead of us being told. I highly objected 14 to that. 15 There's a whole slew of, I think, reasons. 16 Heck, I was asked who I voted for, and if I 17 voted for a certain candidate that didn't align, 18 Brett Nevarez says we shouldn't be in the union. 19 Q. Thank you, Ms. Carter. 20 And we have talked about buckets a lot. 21 A. Uh-huh. 22 Q. Let's talk about buckets. 23 Can we put this in a fourth bucket of you had a 24 plethora of general dissent against the Union, and 25 you believe you were being retaliated against, is</p>

<p style="text-align: right;">Page 1430</p> <p>1 that fair?</p> <p>2 A. Yes. Yes.</p> <p>3 Q. Are you the only objector that was being</p> <p>4 retaliated against?</p> <p>5 A. No.</p> <p>6 Q. Okay. Can you tell me all of the objectors you</p> <p>7 are aware of that you believe were also being</p> <p>8 retaliated against by the Union?</p> <p>9 A. Well, there's quite a few. But the ones that I</p> <p>10 do know personally --</p> <p>11 Q. I wanted to know all of the ones that you</p> <p>12 think, whether you know them personally.</p> <p>13 A. Okay. Well, I don't know -- I know Michi</p> <p>14 Foley. I know Jeanna Jackson, who is here in this</p> <p>15 courtroom. I know Cheri Parnell. I don't know if</p> <p>16 she was an objector, I can't remember. Yeah, she</p> <p>17 was.</p> <p>18 Kim Hensley, I'm not sure if she was an</p> <p>19 objector, but she was one that was kind of</p> <p>20 retaliated towards.</p> <p>21 Mike Casper. Greg Hofer.</p> <p>22 I know who else they retaliated against but she</p> <p>23 wasn't an objector was Holly Imomovich. They harmed</p> <p>24 her horribly.</p> <p>25 I could go down a list. I have to have all</p>	<p style="text-align: right;">Page 1431</p> <p>1 their names in front of me.</p> <p>2 THE COURT: Hold on.</p> <p>3 MR. PRYOR: Can the witness finish her</p> <p>4 answer before the sidebar?</p> <p>5 THE COURT: She can finish if she's got</p> <p>6 more to complete.</p> <p>7 MR. PRYOR: Take your time.</p> <p>8 THE WITNESS: Beverly Belanger.</p> <p>9 Gosh, I can't think of all of the names.</p> <p>10 I know that there was a whole list that Brian also</p> <p>11 sent in the day that I was being called in in my</p> <p>12 fact-finding meeting, and that's a whole list of</p> <p>13 people. But there is more to add to that.</p> <p>14 They all got harmed at some point. They</p> <p>15 either got a 30-day suspension -- they really went</p> <p>16 after Jeanna Jackson.</p> <p>17 THE COURT: Okay. Hold on. This is where</p> <p>18 we need to talk at sidebar.</p> <p>19 (Thereupon, the following proceedings were</p> <p>20 had at sidebar:)</p> <p>21 THE COURT: You can't let her finish to</p> <p>22 that degree, right? You can't let her finish to</p> <p>23 that degree. We are walking right into the limine</p> <p>24 point on what Southwest did to people.</p> <p>25 So she can complete her answer but not</p>
<p style="text-align: right;">Page 1432</p> <p>1 violate the limine.</p> <p>2 MR. PRYOR: I don't want her to violate</p> <p>3 the limine. He asked for the names. She --</p> <p>4 THE COURT: And then she gratuitously</p> <p>5 volunteered --</p> <p>6 MR. PRYOR: Well, then she's been -- okay.</p> <p>7 THE COURT: She's been in the courtroom</p> <p>8 for the limine discussions. She's heard that.</p> <p>9 So now I need to go back and say, whatever</p> <p>10 Southwest did to anybody does not matter to the</p> <p>11 claims in this case.</p> <p>12 MR. PRYOR: I agree with that.</p> <p>13 MR. McKEEBY: I mean, I --</p> <p>14 MR. PRYOR: Is that the reason for the</p> <p>15 sidebar? I didn't even -- I was thinking of</p> <p>16 something else.</p> <p>17 MR. McKEEBY: Well, the reason for the</p> <p>18 sidebar is that I think the question, frankly, was</p> <p>19 phrased in a way to prompt her to provide answers</p> <p>20 that violate the motion in limine. So I don't think</p> <p>21 that -- I think you phrased --</p> <p>22 MR. GREENFIELD: Guys, this is the</p> <p>23 double-edged sword that I have been briefing the</p> <p>24 entire time as part of my motion in limine, is that</p> <p>25 once evidence is presented about certain testimony,</p>	<p style="text-align: right;">Page 1433</p> <p>1 certain social media violations, I need to be able</p> <p>2 to flesh out who she thinks is being retaliated</p> <p>3 against. I need to be able to --</p> <p>4 THE COURT: Well, as to the Union, yes.</p> <p>5 But that's not the same as Southwest coming back</p> <p>6 with ultimate dismissal.</p> <p>7 So you can still ask your question on who</p> <p>8 got turned in. That's separate and apart from what</p> <p>9 Southwest did to those people. And that last</p> <p>10 sentence is the one she said I find problematic.</p> <p>11 MR. PRYOR: Your Honor, I'm comfortable</p> <p>12 with telling her directly that she's not being asked</p> <p>13 about that. I mean, I think she --</p> <p>14 THE COURT: So I can do that. I can ask</p> <p>15 the jury to disregard the last statement on what</p> <p>16 Southwest did and then continue on, and then ask her</p> <p>17 in the future if she's got information on that.</p> <p>18 Don't volunteer that. That is something --</p> <p>19 MR. McKEEBY: And I think you need to</p> <p>20 explain why you are doing that by repeating the</p> <p>21 limine instruction.</p> <p>22 THE COURT: Right. I will.</p> <p>23 MR. PRYOR: No objection, your Honor.</p> <p>24 THE COURT: Sidebar.</p> <p>25 (Thereupon, the sidebar was concluded and</p>

<p style="text-align: right;">Page 1434</p> <p>1 the following proceedings were held in open 2 court:)</p> <p>3 THE COURT: Okay. So I will ask the jury 4 to disregard the last part on what Southwest did to 5 anyone. If you recall, I talked about this earlier. 6 What Southwest ultimately did to anyone is 7 not relevant to the types of claims that are in this 8 lawsuit as to Southwest. 9 Anyone who might have been reported to 10 Southwest from the Union, that might be relevant to 11 the claims against the Union, but I will ask the 12 witness, if you have information on what Southwest 13 did to anyone, I have carved that out of the 14 lawsuit, given the nature of the claims at this 15 point. 16 So, jury, please disregard that last 17 sentence. 18 Please refrain from getting into that, 19 Ms. Carter. 20 And you can proceed, Mr. Greenfield. 21 MR. GREENFIELD: Thank you. 22 BY MR. GREENFIELD: 23 Q. Ms. Carter, right now you and I are having a 24 conversation, is that correct? 25 A. Correct.</p>	<p style="text-align: right;">Page 1435</p> <p>1 Q. And these are your friends and supporters 2 behind your attorneys? 3 A. Those are all flight attendants at Southwest. 4 Yes. 5 Q. Are they not your friends? 6 A. Oh, yeah, they are friends and supporters and 7 workmates and people who got harmed by the Union. 8 Q. That's what I'm asking, if they are just 9 friends and supporters, ma'am. Is that right, 10 Ms. Carter? 11 A. Yes. I mean, I think you guys have friends and 12 supporters behind you, too. 13 Q. I don't know a single other person in this 14 courtroom other than people who work for Southwest 15 Airlines. I don't know anybody else here. I will 16 represent that to the Court. 17 MR. PRYOR: Your Honor, the objection is 18 who has supporters in the gallery, the irrelevance. 19 BY MR. GREENFIELD: 20 Q. And here is why I bring it up, Ms. Carter. 21 MR. PRYOR: Okay. I still have an 22 objection to relevance. 23 THE COURT: I don't see the relevance. 24 Mr. Greenfield, you can explain for me at 25 sidebar if you want.</p>
<p style="text-align: right;">Page 1436</p> <p>1 MR. GREENFIELD: I will absolutely move 2 on, your Honor. 3 THE COURT: Okay. 4 BY MR. GREENFIELD: 5 Q. We are having a conversation, correct? 6 A. Correct. 7 Q. I would like to ask you to talk to me. I don't 8 believe there is any reason for you to be searching 9 over in that area, is that fair, with your eyes? 10 MR. PRYOR: Your Honor, I object. That 11 mischaracterizes -- 12 THE WITNESS: I'm not searching over in 13 that area. 14 MR. PRYOR: He asked her to see who is in 15 the gallery and she looks, and then he acts like 16 it's improper? 17 THE COURT: Sustained. 18 BY MR. GREENFIELD: 19 Q. All right. 20 People you believe were retaliated against by 21 the Union are Michi Foley? 22 A. Kent Hand, too. 23 Q. Kent Hand. Okay. I'm just trying to get 24 everybody here. 25 A. And he had to sue to get his job back as well.</p>	<p style="text-align: right;">Page 1437</p> <p>1 Q. Ma'am, if you could -- 2 THE COURT: That's a Southwest issue. 3 What Southwest did to anyone is -- 4 THE WITNESS: Oh, I'm sorry. 5 THE COURT: -- not part of this lawsuit. 6 THE WITNESS: I'm sorry. 7 BY MR. GREENFIELD: 8 Q. Ma'am my, question is very simple. I'm just 9 trying to understand who you believe was also being 10 retaliated against by the Union, okay? 11 We have Michi Foley, correct? 12 A. Yes. 13 Q. Jeanna Jackson? 14 A. Yes. 15 Q. Cheri Parnell? 16 A. Yes. 17 Q. Kim Hensley? 18 A. Yes. 19 Q. Mike Casper? 20 A. Yes. 21 Q. Greg Hofer? 22 A. Yes. 23 Q. Holly Imomovich? 24 A. Yes. 25 Q. Beverly Belanger?</p>

<p style="text-align: right;">Page 1438</p> <p>1 A. Yes.</p> <p>2 Q. And Kent Hand?</p> <p>3 A. Yes.</p> <p>4 And there's many more, I just don't know their</p> <p>5 names on the top of my head.</p> <p>6 Q. There's many more --</p> <p>7 A. There was 100 of us, and we all had some kind</p> <p>8 of issue.</p> <p>9 Q. There's 100 objectors. Is it your testimony</p> <p>10 that the Union took action to retaliate against all</p> <p>11 100 of those individuals?</p> <p>12 A. I believe most of the ones that I just told you</p> <p>13 about, we were the most vocal, and we were the ones</p> <p>14 that were the most harmed.</p> <p>15 But, yes, there were others that were harmed by</p> <p>16 the Union.</p> <p>17 Q. My question is a little bit different, ma'am.</p> <p>18 Are you claiming today that all 100 of those</p> <p>19 objectors were also being retaliated against by the</p> <p>20 Union?</p> <p>21 A. If they were an objector.</p> <p>22 Q. So yes.</p> <p>23 A. I don't know if they did, but yes, they went</p> <p>24 after -- Brian Talburt states that he wants all</p> <p>25 objectors. I mean, he went after all of us.</p>	<p style="text-align: right;">Page 1439</p> <p>1 Q. Ma'am, my question is, do you have an</p> <p>2 understanding or a belief --</p> <p>3 A. Yes, I do.</p> <p>4 Q. Do you have a basis for saying that all 100 --</p> <p>5 A. I have an understanding.</p> <p>6 THE COURT: Hold on. Hold on.</p> <p>7 Finish your question, and then you can</p> <p>8 answer.</p> <p>9 BY MR. GREENFIELD:</p> <p>10 Q. You have a basis for saying that all 100</p> <p>11 objectors were being retaliated against by the</p> <p>12 Union? What is that basis?</p> <p>13 A. They put all of our names out on a list and</p> <p>14 sent it around to all flight attendants so that they</p> <p>15 could gather information and turn them in. Yes.</p> <p>16 And the Union did that.</p> <p>17 Q. We will come back to that.</p> <p>18 Have you provided that documentation to your</p> <p>19 attorneys, Ms. Carter?</p> <p>20 MR. PRYOR: Object to the extent he wants</p> <p>21 to talk about communications with counsel. He's</p> <p>22 aware --</p> <p>23 THE COURT: Hold on.</p> <p>24 Sustained.</p> <p>25 You can bring it up at sidebar if you</p>
<p style="text-align: right;">Page 1440</p> <p>1 want.</p> <p>2 BY MR. GREENFIELD:</p> <p>3 Q. And it's your -- do you have specific knowledge</p> <p>4 that all of the individuals that you did name, the</p> <p>5 nine individuals, were all objectors?</p> <p>6 A. Yes.</p> <p>7 Q. You are sure about that?</p> <p>8 A. Pretty darn sure. I know they were objectors</p> <p>9 at one point.</p> <p>10 Q. And it is your testimony that Ms. Jeanna</p> <p>11 Jackson, who is sitting over there in the gallery</p> <p>12 right now, that she was an objector during that time</p> <p>13 period?</p> <p>14 A. She was an objector prior to that, and I</p> <p>15 believe she spent another \$100 to become a member</p> <p>16 again so that she could vote on the contract.</p> <p>17 But she was the recall petition holder, and the</p> <p>18 Union went after her with a vengeance.</p> <p>19 Q. Yes, ma'am. And we will turn to that recall</p> <p>20 right now.</p> <p>21 As you testified earlier, you were being</p> <p>22 retaliated against because you were a recall</p> <p>23 supporter, correct?</p> <p>24 A. Yes, I was vocal about it, yes.</p> <p>25 Q. Okay. And were all of the other recall</p>	<p style="text-align: right;">Page 1441</p> <p>1 supporters being retaliated against as well?</p> <p>2 A. A lot of them, yeah. We were. We were all</p> <p>3 being -- yes.</p> <p>4 Q. All of them?</p> <p>5 A. I don't know how many there were on the recall.</p> <p>6 I don't know the exact number. But, yes, most of</p> <p>7 the ones that got harmed the worst were the most</p> <p>8 that were speaking about it.</p> <p>9 Q. Now, is it fair to say that you believe the</p> <p>10 recall petition to be a valid complaint?</p> <p>11 A. It was a very valid complaint.</p> <p>12 Q. You believe there to be no fraud associated</p> <p>13 with that document?</p> <p>14 A. I don't believe that there was any fraud. I</p> <p>15 believe that the Union -- and I'm going to state</p> <p>16 this now --</p> <p>17 Q. Uh-huh.</p> <p>18 A. It was like the -- what is it? The fox</p> <p>19 guarding the henhouse. Whatever that is. Where you</p> <p>20 actually have the actual people that we didn't want</p> <p>21 in there actually doing some of the counting of the</p> <p>22 votes and going through these things.</p> <p>23 Yes, I don't believe that that is the way it</p> <p>24 should have been handled.</p> <p>25 Q. Fair to say you believe it's a conspiracy to</p>

<p style="text-align: right;">Page 1442</p> <p>1 get --</p> <p>2 A. It's not a conspiracy. We know it to be true.</p> <p>3 MR. PRYOR: Wait. Object, your Honor, to</p> <p>4 the relevance of going down this talking about the</p> <p>5 recall petition.</p> <p>6 THE COURT: I'll allow it.</p> <p>7 THE WITNESS: We know it to be true, who</p> <p>8 counted the votes. She did everything she could to</p> <p>9 make sure everything was on the up and up. But when</p> <p>10 you have the same people counting the votes as who</p> <p>11 is in office or who is working with the Union, doing</p> <p>12 the count, that is not a conspiracy, it is a</p> <p>13 conflict of interest, and it doesn't look right, and</p> <p>14 I don't think that that's the way it should have</p> <p>15 been handled.</p> <p>16 BY MR. GREENFIELD:</p> <p>17 Q. So you --</p> <p>18 A. So, no, I don't believe your findings, I don't.</p> <p>19 Q. So you believe the findings of the committee</p> <p>20 that investigated the report --</p> <p>21 A. Uh-huh.</p> <p>22 Q. -- are false?</p> <p>23 A. I think a lot of them are, yes.</p> <p>24 Q. Well, it's either -- so you think it's</p> <p>25 partially false or fully false?</p>	<p style="text-align: right;">Page 1443</p> <p>1 A. I think it's partially false, yes.</p> <p>2 Q. Okay. What do you think did they make up,</p> <p>3 ma'am?</p> <p>4 A. Honestly --</p> <p>5 MR. PRYOR: Relevance.</p> <p>6 THE WITNESS: I don't know. I just know</p> <p>7 that --</p> <p>8 THE COURT: I need to rule on the</p> <p>9 objection first.</p> <p>10 I will overrule. You can answer.</p> <p>11 THE WITNESS: It -- it -- you shouldn't</p> <p>12 have the same people counting the votes and looking</p> <p>13 at these signatures as who is in the union</p> <p>14 supporting the same people in the union that you are</p> <p>15 actually recalling. And that is the way it was</p> <p>16 handled.</p> <p>17 BY MR. GREENFIELD:</p> <p>18 Q. Okay. And we will talk about -- we will go</p> <p>19 into this in more depth, don't worry.</p> <p>20 I'm just trying to get all of us on the same</p> <p>21 page, okay?</p> <p>22 A. Uh-huh.</p> <p>23 Q. So you believe that it was improper and</p> <p>24 fraudulent, correct?</p> <p>25 A. My personal --</p>
<p style="text-align: right;">Page 1444</p> <p>1 Q. The findings?</p> <p>2 A. My personal -- my personal view --</p> <p>3 Q. Yes, ma'am.</p> <p>4 A. -- not anybody else's, yes, I do.</p> <p>5 Q. And that's because the individuals who were on</p> <p>6 the committee were biased of some sort, right?</p> <p>7 A. When you are working in and with a union, yes,</p> <p>8 I do think that's a bias.</p> <p>9 Q. Okay. And, again, we will talk about all of</p> <p>10 that later.</p> <p>11 Now, the third bucket was opposing signing of</p> <p>12 the contract.</p> <p>13 A. That is correct.</p> <p>14 Q. Okay. Are you aware that Donna Keith, a woman</p> <p>15 named Donna Keith opposed signing the contract, the</p> <p>16 first tentative agreement?</p> <p>17 Do you know who Donna Keith is?</p> <p>18 A. I know who Donna Keith is. I know she sits on</p> <p>19 the board. I don't know if she's a domicile rep. I</p> <p>20 can't remember what position that she -- that she</p> <p>21 holds.</p> <p>22 Q. Uh-huh.</p> <p>23 A. But that was her personal -- if she signed</p> <p>24 against the -- what was it -- you said the first</p> <p>25 tentative agreement?</p>	<p style="text-align: right;">Page 1445</p> <p>1 Q. Yes, ma'am.</p> <p>2 A. Why would I need to know if she signed it or</p> <p>3 not?</p> <p>4 Q. I'm asking if you're aware or not.</p> <p>5 A. No, I was not aware.</p> <p>6 Q. Were you in the courtroom when Ms. Stone</p> <p>7 testified that Ms. Keith opposed the first tentative</p> <p>8 agreement?</p> <p>9 A. Yes, but I didn't remember who it was that she</p> <p>10 said.</p> <p>11 Q. Do you have any reason to believe that that</p> <p>12 would be inaccurate?</p> <p>13 A. I'd have to look at the --</p> <p>14 MR. PRYOR: Object, foundation.</p> <p>15 THE WITNESS: I don't know. Because I</p> <p>16 would have to look at what the -- I mean who</p> <p>17 actually signed for the TA. I don't know if it's</p> <p>18 true or not. I don't have the paperwork in front of</p> <p>19 me.</p> <p>20 THE COURT: Okay. I'm overruling that</p> <p>21 foundation objection to the last question.</p> <p>22 BY MR. GREENFIELD:</p> <p>23 Q. And are you aware of whether or not Mr. John</p> <p>24 DiPippa opposed the first tentative agreement?</p> <p>25 A. I don't know.</p>

<p style="text-align: right;">Page 1446</p> <p>1 Q. Were you in the courtroom when Ms. Stone 2 testified that Mr. DiPippa opposed the signing of 3 the first tentative agreement? 4 A. I don't remember who she spoke to. I'm sorry. 5 I just don't remember. And, you know -- and if you 6 say that's true, then that must be true. I just 7 don't -- and I don't have the paperwork in front of 8 me. 9 Q. And that's fair, Ms. Carter. All I'm asking is 10 if you remember, that is all. 11 A. Okay. 12 Q. And Ms. Jessica Parker, are you aware whether 13 or not she opposed the signing of the first 14 tentative agreement? 15 A. Well, I'm sure that Ms. Stone actually probably 16 testified for that, so I'm going to trust your 17 wording on this. But, again, I don't have who 18 signed and who didn't in front of me, so I cannot 19 say with a shadow of a doubt whether they did or 20 not. I can only take what she said here in the 21 courtroom. 22 Q. Nor am I asking you to testify to anything that 23 you don't specifically know about, okay? 24 Are you aware of who served on the committee to 25 review the recall petition?</p>	<p style="text-align: right;">Page 1447</p> <p>1 A. I know they were union members and worked in 2 the union. I don't recall who it was, the names per 3 se. But I do know that they were. And I'm sure 4 it's within those names that you just said because I 5 do know that Jessica Parker was part of it. But 6 that doesn't have anything to do with the TA. 7 I objected with Jessica Parker doing some of 8 the things that she did. She was at the Women's 9 March. So, again -- 10 Q. Thank you, ma'am. My question is a little bit 11 different. 12 Would it surprise you to find out that Jessica 13 Parker was on the committee to review? 14 A. No, it wouldn't surprise me at all. 15 Q. Would it surprise you that Donna Keith was on 16 the committee to review the recall? 17 A. It wouldn't surprise me at all. 18 Q. Would it surprise you that John DiPippa was on 19 there? 20 A. It wouldn't surprise me at all. 21 Q. Now, all of those individuals, I will represent 22 to you, through Ms. Stone, opposed the first 23 tentative agreement. 24 A. The two don't have anything to do with each 25 other, not with -- not with the recall.</p>
<p style="text-align: right;">Page 1448</p> <p>1 Q. Okay. But isn't it fair that -- and I believe 2 this was your testimony -- that the recall petition 3 was started after the first -- after the first 4 tentative agreement failed, correct? 5 A. Correct. 6 Q. And you believe that you were being retaliated 7 against by the Union for opposing that? 8 A. That is correct. 9 Q. Yet we have three committee members who opposed 10 the first tentative agreement who are reviewing the 11 recall petition. 12 A. Did I put it -- 13 Q. You believe that the findings that they came up 14 with are fraudulent, is that fair? 15 A. Did I say everybody on the board or did I say 16 as a collective the Union was going after us? 17 Q. Ma'am, you testified that the -- I believe, and 18 correct me if I'm wrong, that the findings of the 19 committee reviewing the recall were fraudulent. 20 Isn't that true? 21 A. I think they were, yes. I do believe so. I 22 believe so. 23 MR. PRYOR: Object. He's using her words 24 instead of -- he's using his words instead of hers. 25 He's mischaracterizing her testimony. She didn't</p>	<p style="text-align: right;">Page 1449</p> <p>1 say -- 2 THE COURT: Hold on. Hold on. That's a 3 speaking objection. 4 I will sustain that. 5 MR. GREENFIELD: All right. 6 BY MR. GREENFIELD: 7 Q. And then we have this fourth bucket of general 8 union dissent that we kind of agreed upon. 9 Is that pertaining to, for example, the 10 messages you sent to Ms. Stone's Facebook account 11 from 2015 to 2017, before the ones you were turned 12 in for? 13 A. The dissent? 14 Q. Is that what we are talking about? 15 A. Yes. It started -- yes, it started with what 16 they did in the core group and got away with. 17 Q. And did Ms. Stone ever turn you in for any of 18 those posts? 19 A. If my recollection is correct, she said she 20 didn't really read most of those. 21 Q. Okay. So she wouldn't have turned you in for 22 it, would she have? 23 A. If she didn't read any of them, I don't think 24 she knew what they even said. 25 Q. So we could agree, then, it would be impossible</p>

<p style="text-align: right;">Page 1450</p> <p>1 for her to file a complaint with you over something</p> <p>2 she didn't read, is that fair?</p> <p>3 A. Yeah, if she hasn't seen them or read them.</p> <p>4 Q. Agreed.</p> <p>5 You mentioned religious discrimination, so we</p> <p>6 are on to our third complaint, so all of us can be</p> <p>7 on the same page.</p> <p>8 Yes, your Honor.</p> <p>9 THE COURT: Can I ask about a lunch break?</p> <p>10 It's 12:10. Is it okay timing-wise to take a</p> <p>11 one-hour lunch break?</p> <p>12 MR. GREENFIELD: Of course.</p> <p>13 THE COURT: Okay. Sorry about</p> <p>14 interrupting your flow.</p> <p>15 MR. GREENFIELD: No problem.</p> <p>16 THE COURT: So the jury will come back at</p> <p>17 1:11.</p> <p>18 So the same three instructions. You can</p> <p>19 only talk to your fellow jurors or court personnel,</p> <p>20 just not about this case. You can't talk to anyone</p> <p>21 else. And don't do any research about the case.</p> <p>22 We will see you in one hour.</p> <p>23 All rise.</p> <p>24 (The jurors exited the courtroom.)</p> <p>25 THE COURT: Before you leave, I need to</p>	<p style="text-align: right;">Page 1451</p> <p>1 ask y'all, so this goes back to our discussion at</p> <p>2 the end of the day Friday.</p> <p>3 How long of a break can I tell someone</p> <p>4 they cannot talk about the case? My PA, similar</p> <p>5 with a Seventh Amendment right or a Fifth Amendment</p> <p>6 right, I cannot sideline an overnight break, but</p> <p>7 something shorter that I can say, don't talk to</p> <p>8 anyone about the case.</p> <p>9 So my leaning is to ask you, do not talk</p> <p>10 to anyone about the case in the one-hour lunch</p> <p>11 break.</p> <p>12 Anyone want to take a shot at me as to why</p> <p>13 I'm wrong?</p> <p>14 MR. PRYOR: If he wants to instruct her</p> <p>15 not to talk to anybody, that is fine. One-hour</p> <p>16 lunch break.</p> <p>17 THE COURT: Well, to not to talk to anyone</p> <p>18 about the case. I realize we put you all in small</p> <p>19 rooms. The best I can do is ask somebody to not</p> <p>20 talk about the case, right? I can't --</p> <p>21 MR. PRYOR: We are fine with it, but I did</p> <p>22 want to talk to her again about the limine to make</p> <p>23 sure we don't have that issue about Southwest</p> <p>24 Airlines. I think you made it clear, but it seemed</p> <p>25 to come up even after you mentioned it.</p>
<p style="text-align: right;">Page 1452</p> <p>1 THE COURT: I'm fine with that as an</p> <p>2 exception. The limine and what Southwest did to</p> <p>3 somebody is the only thing you can talk about</p> <p>4 case-wise. Is that all right?</p> <p>5 I will note your objection. I'll overrule</p> <p>6 it because I think I'm safe at an hour even for</p> <p>7 someone with Fifth or Seventh Amendment rights, but</p> <p>8 not in overnight stay context.</p> <p>9 All right. So please don't talk to anyone</p> <p>10 about the case except to the extent we just talked</p> <p>11 about. You can talk to your lawyers about the</p> <p>12 motion in limine on Southwest and their treatment of</p> <p>13 individuals.</p> <p>14 Okay. Anything else before y'all take</p> <p>15 your break?</p> <p>16 Okay we will see y'all back here at 1:10.</p> <p>17 How about that? One minute before the jury shows</p> <p>18 up. Thank you.</p> <p>19 (Recess.)</p> <p>20 THE COURT SECURITY OFFICER: All rise.</p> <p>21 THE COURT: Thank you.</p> <p>22 Mr. Frye is out because he's wrapping up</p> <p>23 the time clock calculations. I'm trying to give</p> <p>24 y'all, you know, half-day calculations and then</p> <p>25 end-of-the-day calculations so you know a closer to</p>	<p style="text-align: right;">Page 1453</p> <p>1 accurate time where you stand. So he will come back</p> <p>2 in as soon as he's done with that.</p> <p>3 Anything before we get the jury?</p> <p>4 MR. GREENFIELD: No.</p> <p>5 THE COURT: Let's bring them on in.</p> <p>6 (The jurors entered the courtroom.)</p> <p>7 THE COURT: Okay. You can be seated. And</p> <p>8 Mr. Greenfield, you can continue.</p> <p>9 BY MR. GREENFIELD:</p> <p>10 Q. Hello, Ms. Carter.</p> <p>11 A. Hello.</p> <p>12 Q. All right. Do you mind if we just kind of pick</p> <p>13 right back up where we left off before lunch?</p> <p>14 A. Sure.</p> <p>15 Q. Okay. And what we were doing before lunch, is</p> <p>16 you and me the jury here, we're trying to get on the</p> <p>17 same page as what you are claiming and how the union</p> <p>18 has wronged you, okay?</p> <p>19 A. Uh-huh.</p> <p>20 Q. All right.</p> <p>21 And we just finished talking about the Railway</p> <p>22 Labor Act, and we talked about your claims of breach</p> <p>23 of fiduciary duty against the union.</p> <p>24 And now I'm turning to, you have claims against</p> <p>25 the union for religious discrimination, and that the</p>

<p style="text-align: right;">Page 1454</p> <p>1 union discriminated against you because of your 2 religion? 3 A. Correct. 4 Q. Is that correct? 5 A. Correct. 6 Q. And how did the union do that, ma'am? 7 MR. PRYOR: Object to the extent it calls 8 for a legal conclusion. 9 BY MR. GREENFIELD: 10 Q. How do you believe the union did that? 11 THE COURT: I will allow it to the extent 12 she has knowledge. 13 You can answer. 14 THE WITNESS: I don't know how to 15 formulate the words correctly. 16 In the fact-finding notes that Audrey 17 Stone had sent -- or was talking with Ed Schneider 18 reflects that she's making reference to my Facebook 19 posts and my Christianity. And I'm not exactly sure 20 why she would use such, you know -- what does my 21 Christianity have to do with my Facebook page, my 22 personal Facebook page? 23 I do believe that she went after me 24 because of the Women's March, because I'm an 25 objector, I object to everything that this union is</p>	<p style="text-align: right;">Page 1455</p> <p>1 doing, and she didn't go to that march -- let's put 2 it this way, I have never seen the union go to a pro 3 life march. Ever. 4 They represent everything else that is 5 political or a hot topic of some sort. And they 6 don't make reference to any of our jobs per se. I 7 think the union should be there specifically for our 8 jobs, our safety, the health of us on the airplane 9 and so forth. 10 BY MR. GREENFIELD: 11 Q. And that is why you are an objector, right, 12 ma'am? 13 A. Oh, that -- yeah, she -- 14 Q. I understand. 15 A. Yes. 16 Q. Okay. So is it fair to say that you believe 17 the union discriminated against you through 18 Ms. Stone as the president, correct? 19 A. Correct. 20 Q. And the discrimination is found by her turning 21 you in for the post you sent her, correct? 22 A. And speaking about my Christianity, yes. 23 Q. Okay. And that's -- 24 A. She mentions it. 25 Q. Right. And that is within those posts?</p>
<p style="text-align: right;">Page 1456</p> <p>1 A. In what posts? 2 Q. Or -- I'm sorry -- within the Facebook messages 3 you sent her? I apologize. 4 A. I don't -- you know what? I don't remember all 5 of the Facebook messages that I wrote to her. But 6 she referenced it off of my personal page. 7 Q. Okay. Is there anything else in any other way 8 that the union discriminated against you because of 9 your religious beliefs, other than that? 10 MR. PRYOR: Same objection as legal 11 conclusions. 12 THE COURT: I will allow her to answer 13 based on her personal knowledge. 14 THE WITNESS: That is a hard one to answer 15 specifically, but their actions prove what happened 16 to me. She got me fired for my Christian belief on 17 my Facebook page. Also, the fact that I was totally 18 against them going to that march, and, you know, 19 supporting Planned Parenthood. I don't know how 20 much more I can say about -- 21 BY MR. GREENFIELD: 22 Q. Is it fair to say -- I'm sorry. I didn't mean 23 to cut you off. 24 A. That's okay. 25 Q. Is it fair to say that it was the actions of</p>	<p style="text-align: right;">Page 1457</p> <p>1 Ms. Stone? 2 A. Ms. Stone as being the union president. And 3 the union, when I went -- okay. 4 Q. Yes, ma'am, I know. We agree on that. I don't 5 think -- I think we are all on the same page. 6 It is fair to say that it was that act of 7 Ms. Stone turning you in, that is where you believe 8 the discrimination lies, is that fair? 9 A. Yes. 10 Q. Okay. Do you know if Ms. Stone is a Christian 11 as well? 12 A. No, I do not. 13 Q. Do you believe anyone else was treated better 14 than you -- do you believe any non-Christians were 15 treated better than you? 16 A. I don't know -- because -- like, you know, 17 everybody has been trying to say I'm trying to shove 18 my religion down other people's throats. Most 19 times, unless we know of our friends, we don't 20 really talk about that at work. I mean, because it 21 is a subject that you usually, you know, when you 22 are on the airplane, you keep -- unless you know 23 somebody. 24 Will you ask that one more time, though, the 25 way you asked it.</p>

<p style="text-align: right;">Page 1458</p> <p>1 Q. Yes. It wasn't -- I didn't do a really good 2 job. 3 And maybe I can put these two things side by 4 side and it will help us. 5 You claim that you were discriminated against 6 in part because you were an objector. So we said 7 all of these other -- you had a list of some other 8 objectors that you felt were retaliated against? 9 A. Uh-huh. 10 Q. Do you feel like there were any other 11 Christians that the union was targeting or was it 12 just you? 13 A. That, I don't have any knowledge of. I don't. 14 You know, I know some of my friends that she did -- 15 or they did go after are Christians, so, yes. I 16 don't know if they displayed that, and if they knew 17 that specifically. But, yes. 18 Q. Are you aware of any non-Christians who were 19 treated more favorably than you by the union? 20 A. Again, I don't know most of the objectors' 21 faith. So I can't really say. I don't know. 22 Q. I understand. 23 And let's -- let's even not just say 24 "Christian," because I think to be fair, there is 25 probably different interpretations of how people</p>	<p style="text-align: right;">Page 1459</p> <p>1 view Christianity, so I don't want to blanketly put 2 that on you. 3 Do you believe there is any individuals who 4 shared your religious beliefs who were also being 5 discriminated against by the union? 6 A. Yes, I do. 7 Q. Okay. Who are those people? 8 A. Jeanna Jackson. Beverly Bellinger. I know 9 Mike Casper, he was. Knowledge-wise of other 10 people, I don't -- I honestly don't know. Maybe 11 Michelle Foley, I think she falls into the same 12 camp. 13 Q. Okay. And can you point the jury to any 14 individuals who did not share your religious beliefs 15 who were being treated more favorably than you? 16 A. Can I point my finger to them? 17 Q. Yes. Can you identify them, sorry, you know? 18 A. Like I said, I don't know everybody's belief 19 systems. I think that not only were there 20 Christians complaining about this, but there were 21 other members. There's men that were talking 22 regarding this, that their union dues shouldn't have 23 been spent for this. There's a -- we have a diverse 24 group, and they should represent all when they do 25 these things, not just a select group.</p>
<p style="text-align: right;">Page 1460</p> <p>1 And really, they should stay out of political 2 stuff, because like I said, we are all a diverse 3 group. They should be taking care of the contract, 4 our jobs, our safety, our health, anything that has 5 got to do with our specific jobs. That is what the 6 union should be taking care of. Period. 7 Q. Yes, ma'am. I think we understand that you 8 have a specific view as to what the union's role 9 should be, fair? 10 A. Well, I think a lot of people do. I mean, it 11 is -- you know, there are so many of us and we all 12 think differently. 13 Q. I understand. Absolutely. I would completely 14 100 hundred percent agree with you the fact that -- 15 well, let's just take a step back. The union is 16 about 15,000 people? 17 A. Give or take, yes. I don't know what it is 18 now. 19 Q. Just approximately. 20 A. Yeah. 21 Q. Fair to say within that group, there is people 22 of many different religions? 23 A. Yes. 24 Q. Many different races? 25 A. Yes.</p>	<p style="text-align: right;">Page 1461</p> <p>1 Q. Different political beliefs? 2 A. Yes. 3 Q. Okay. I would like to now kind of talk about 4 your last claim that you are bringing against the 5 union. 6 You have claimed that the union did not provide 7 you a religious accommodation, is that your 8 understanding as well? 9 A. Yes. I mean, they didn't -- they didn't even 10 take -- into -- especially when I went above -- when 11 I went towards the board, when I had to have my 12 meeting with the board. 13 Same argument. You know, this was a union 14 president that turned me in. I'm a Christian. I 15 don't believe that our union dues -- all through 16 everything that I have said this whole time -- and I 17 actually spoke to Michael Massoni, he was the person 18 that was on the phone. They chose not to take my 19 case, knowing that it was the union president that 20 turned me in. 21 Q. You say he decided not to take your case? 22 A. No, they did not take my case. I had to bring 23 my own attorneys. 24 Q. You are talking about the arbitration 25 proceeding?</p>

<p style="text-align: right;">Page 1462</p> <p>1 A. Correct.</p> <p>2 Q. Okay.</p> <p>3 A. And they should have represented me knowing</p> <p>4 that this was union business, and it was -- that</p> <p>5 this was the president turned me in to the company.</p> <p>6 They have a fiduciary -- a fiduciary responsibility</p> <p>7 and they take an oath not to harm a member.</p> <p>8 Now, I'm an objector, but I still pay the dues.</p> <p>9 So -- so, I mean, I don't understand all of that.</p> <p>10 It shouldn't be that way. If I'm an objector, I</p> <p>11 should be able to just say, you know what, I'm going</p> <p>12 to take my dues and send it to another cause, if</p> <p>13 that is the case, if they are not representing us</p> <p>14 the correct way.</p> <p>15 Q. Yes, ma'am. I think we all understand at this</p> <p>16 point why you are an objector and your basis for</p> <p>17 doing that.</p> <p>18 I would like to turn us back to the concept of</p> <p>19 the religious accommodation.</p> <p>20 What, if any, accommodation did you want the</p> <p>21 union to provide you?</p> <p>22 MR. MORRIS: Objection, she just answered.</p> <p>23 THE COURT: Sustained.</p> <p>24 MR. GREENFIELD: I -- maybe we can -- can</p> <p>25 we sidebar, your Honor?</p>	<p style="text-align: right;">Page 1463</p> <p>1 (Thereupon, the following proceedings were</p> <p>2 had at sidebar:)</p> <p>3 MR. GREENFIELD: I don't mean to be</p> <p>4 obstinate, but I honestly have no idea what she just</p> <p>5 said, and I don't think the jury does either.</p> <p>6 THE COURT: She said they didn't provide</p> <p>7 her a lawyer in the arbitration.</p> <p>8 MR. PRYOR: And she said they shouldn't</p> <p>9 have reported her. It's both in her answer. She's</p> <p>10 answered.</p> <p>11 MR. GREENFIELD: Okay. But that is what</p> <p>12 I'm trying to find clarity on. I'm not trying to</p> <p>13 belabor a point. I'm not trying to ask and answer.</p> <p>14 I just literally did not understand her answer.</p> <p>15 THE COURT: So do you want her to tell you</p> <p>16 that you should have provided her a lawyer? If you</p> <p>17 want to ask that.</p> <p>18 MR. GREENFIELD: Okay.</p> <p>19 And then can I wrap it up and say, is</p> <p>20 there anything I'm missing?</p> <p>21 THE COURT: Sure.</p> <p>22 MR. PRYOR: My concern is, you keep asking</p> <p>23 the same question. She feels like, well, gee, I</p> <p>24 guess I must not have answered it before. It is</p> <p>25 just not fair to the witness.</p>
<p style="text-align: right;">Page 1464</p> <p>1 MR. GREENFIELD: I have asked it -- I have</p> <p>2 asked it one time.</p> <p>3 MR. PRYOR: Once is enough.</p> <p>4 MR. GREENFIELD: Mr. Pryor, you were up</p> <p>5 here asking the same question five times. I have</p> <p>6 about 84 asked and answered.</p> <p>7 MR. PRYOR: I'm sure you objected.</p> <p>8 THE COURT: I'll let you ask.</p> <p>9 (Thereupon, the sidebar was concluded and</p> <p>10 the following proceedings were held in open</p> <p>11 court:)</p> <p>12 THE COURT: Okay. You can ask the</p> <p>13 question we discussed.</p> <p>14 BY MR. GREENFIELD:</p> <p>15 Q. Okay. And I'm not trying to be obstinate here,</p> <p>16 Ms. Carter. I'm just trying to have some clarity.</p> <p>17 And so I apologize if I'm -- if you feel like I'm</p> <p>18 belaboring the point, okay?</p> <p>19 A. Uh-huh.</p> <p>20 Q. Okay. My understanding, based on what you</p> <p>21 said, was that you should have been provided an</p> <p>22 accommodation in respect of the union should have</p> <p>23 represented you at the arbitration? Is that what</p> <p>24 you are --</p> <p>25 MR. PRYOR: Let me object.</p>	<p style="text-align: right;">Page 1465</p> <p>1 Mischaracterizes her testimony by not giving her</p> <p>2 complete answer.</p> <p>3 BY MR. GREENFIELD:</p> <p>4 Q. In part. Is that what you are saying, in part?</p> <p>5 THE COURT: I will allow the reformulated</p> <p>6 question.</p> <p>7 BY MR. GREENFIELD:</p> <p>8 Q. Ms. Carter, I'm right here.</p> <p>9 A. I know that. I am -- by turning me in, okay,</p> <p>10 she went against my Christian value system. And</p> <p>11 yes, she -- you know what, if -- I'm just going to</p> <p>12 do a hypothetical here for just second. If I would</p> <p>13 have been the union president --</p> <p>14 MR. GREENFIELD: Object to non-responsive,</p> <p>15 Your Honor. Her hypothetical doesn't --</p> <p>16 THE COURT: I think the question doesn't</p> <p>17 call for it. So I will stop the answer there.</p> <p>18 BY MR. GREENFIELD:</p> <p>19 Q. And again, I'm not trying to cut you off. I</p> <p>20 really am not, but --</p> <p>21 A. Yes, I believe that -- I believe that they</p> <p>22 should have recognized that I was a Christian. I</p> <p>23 don't know what accommodation --</p> <p>24 MR. GREENFIELD: Excuse me, your Honor,</p> <p>25 objection, move to strike. I haven't asked a</p>

<p style="text-align: right;">Page 1466</p> <p>1 question. She's just talking.</p> <p>2 THE COURT: Agreed. So can you refocus</p> <p>3 your question?</p> <p>4 MR. GREENFIELD: Yes, your Honor.</p> <p>5 BY MR. GREENFIELD:</p> <p>6 Q. I'm not trying to be difficult, Ms. Carter. I</p> <p>7 am just trying to understand.</p> <p>8 And I think based on what you just said, is</p> <p>9 that the accommodation you were seeking was that</p> <p>10 that Ms. Stone, President Stone, should not have</p> <p>11 turned you in, and turning you in violated what you</p> <p>12 believe to be your accommodation to be able to say</p> <p>13 what you needed to say regarding your religion? Is</p> <p>14 that -- I don't want to put words in your mouth. Is</p> <p>15 that right?</p> <p>16 A. Yeah, I mean, she -- she turned me in. She</p> <p>17 knew I was a Christian, she saw it on my Facebook</p> <p>18 page.</p> <p>19 You know, it states in our contract -- or in</p> <p>20 the constitution of the -- or the international</p> <p>21 constitution, that you don't discriminate against</p> <p>22 race, you don't discriminate against religion, and</p> <p>23 so on.</p> <p>24 And when she's making reference to my</p> <p>25 Christianity on my Facebook page, that raises a</p>	<p style="text-align: right;">Page 1467</p> <p>1 pretty good question.</p> <p>2 Q. I understand. And we talked about that in</p> <p>3 relationship to your religious discrimination</p> <p>4 claims. So I understand that.</p> <p>5 But just so we are clear, so what you are</p> <p>6 saying is, you should -- the accommodation that you</p> <p>7 wanted the union to provide is that you could make</p> <p>8 that communication to President Stone --</p> <p>9 A. Correct.</p> <p>10 Q. -- and not be turned in, is that correct?</p> <p>11 MR. PRYOR: Object, your Honor, this is</p> <p>12 asked and answered. She's answered it three times.</p> <p>13 Now --</p> <p>14 THE COURT: I will sustain that.</p> <p>15 MR. PRYOR: -- he's wanting to</p> <p>16 summarize --</p> <p>17 THE COURT: Hold on. That is a speaking</p> <p>18 objection. I will sustain that.</p> <p>19 BY MR. GREENFIELD:</p> <p>20 Q. Is that correct?</p> <p>21 THE COURT: No, I sustained it. Got to</p> <p>22 ask a new question.</p> <p>23 BY MR. GREENFIELD:</p> <p>24 Q. Is there anything else that you believe the</p> <p>25 union should have provided you as an accommodation?</p>
<p style="text-align: right;">Page 1468</p> <p>1 MR. PRYOR: Object to the extent it calls</p> <p>2 for a legal conclusion and to the "anything else,"</p> <p>3 given that she's answered this previously in other</p> <p>4 context.</p> <p>5 THE COURT: I will allow the question.</p> <p>6 You can answer.</p> <p>7 THE WITNESS: Whether I'm a Christian or</p> <p>8 not, I believe she did go after my Christianity</p> <p>9 because she spoke about on -- in to my supervisor</p> <p>10 when she turned me in regard to my personal Facebook</p> <p>11 page.</p> <p>12 That means she went back to look for</p> <p>13 something like that, and she referenced that. So,</p> <p>14 yes, I believe she discriminated against me when it</p> <p>15 comes to being a Christian. I do.</p> <p>16 BY MR. GREENFIELD:</p> <p>17 Q. Yes, ma'am.</p> <p>18 I don't dispute that that is what you are</p> <p>19 alleging in this lawsuit.</p> <p>20 A. No, she shouldn't have turned me in.</p> <p>21 Q. Okay. And my question was a little bit</p> <p>22 different.</p> <p>23 I want to know if there is anything else you</p> <p>24 believe that the union should have accommodated you</p> <p>25 in regards of pertaining to your religion, other</p>	<p style="text-align: right;">Page 1469</p> <p>1 than that?</p> <p>2 MR. PRYOR: Again, object, asked and</p> <p>3 answered. Same objections.</p> <p>4 MR. GREENFIELD: I don't believe I ever</p> <p>5 got an answer to this question.</p> <p>6 THE COURT: I will allow this one last</p> <p>7 time, you can answer.</p> <p>8 THE WITNESS: You know, I don't even know</p> <p>9 what an accommodation really is. She should have</p> <p>10 recognized that I was a Christian. And I think that</p> <p>11 she should have -- honestly, she should have -- she</p> <p>12 should have -- well, she should have reached out to</p> <p>13 members, period, with any kind of complaint. But --</p> <p>14 BY MR. GREENFIELD:</p> <p>15 Q. But you weren't a member, were you, Ms. Carter?</p> <p>16 A. I still paid dues. I still -- she was sending</p> <p>17 me things as -- as a union member.</p> <p>18 MR. GREENFIELD: Objection,</p> <p>19 non-responsive.</p> <p>20 BY MR. GREENFIELD</p> <p>21 Q. Ma'am, you were not a member --</p> <p>22 A. I answered that. I'm telling you exactly how I</p> <p>23 see it. The union went after me -- she did -- for</p> <p>24 my Christian beliefs.</p> <p>25 MR. GREENFIELD: Objection, your Honor,</p>

<p style="text-align: right;">Page 1470</p> <p>1 non-responsive. Move to strike. 2 THE WITNESS: I don't know how to answer 3 it. 4 THE COURT: I will sustain that last one 5 of yours. 6 BY MR. GREENFIELD: 7 Q. My question was pretty simple, Ms. Carter. 8 You were not a member, correct? 9 A. I was an objector. 10 Q. Okay. And so your accommodation that you were 11 seeking was that you wanted to be able to say 12 whatever you wanted to, to a coworker, as long as it 13 pertained to your religious beliefs, is that 14 correct? 15 A. I wanted an open dialogue and freedom of speech 16 to my union president, who still has an obligation, 17 because she's spending my dues, to protect me. It 18 is still as an objector, she still has to protect 19 us. 20 Q. I understand, Ms. Carter. My question was a 21 little bit different. 22 Do you agree that you wanted to be able to say 23 whatever you wanted to, to another coworker, as long 24 as it was related to your religion? 25 A. Again, not just a coworker. My union</p>	<p style="text-align: right;">Page 1471</p> <p>1 president. And yes. I should have been able to 2 have that freedom to speak to her in -- just like if 3 I were in a union meeting, yes. 4 Q. And say whatever you want? 5 A. That is what happens in union meetings, yes. 6 Q. Ma'am, was this a union meeting? 7 A. It is the same context. I was speaking to my 8 union president, just like it would have been if I 9 would have been in a union meeting. 10 Q. But it was not a union meeting, correct? 11 A. It was a private message, email, whatever you 12 want to call it, to my union president for the way 13 that they were spending our money, and they had gone 14 to that march, and the things that they spent, you 15 know, our dues money on. So I don't know how much 16 more I can answer that for you. I'm trying. 17 Q. Just my simple question. 18 A. Yes. I believe that I should have an -- okay. 19 Q. And maybe I can take a step back here. 20 My question was, this didn't occur in a 21 membership meeting, did it? 22 A. No. It didn't. 23 Q. Okay. 24 MR. GREENFIELD: Your Honor, I would like 25 to reserve the rest of my time with Ms. Carter for</p>
<p style="text-align: right;">Page 1472</p> <p>1 my case in chief, and I can pass the witness. 2 MR. PRYOR: For your case-in-chief? 3 MR. GREENFIELD: Yes. 4 MR. PRYOR: He's gone beyond direct, and 5 so he needs to ask her questions now. 6 THE COURT: Sidebar. 7 MR. PRYOR: Okay. 8 (Thereupon, the following proceedings were 9 had at sidebar:) 10 MR. PRYOR: Okay. 11 THE COURT: So you're arguing he exceeded 12 the scope, so he's got to go now? 13 MR. PRYOR: What? 14 THE COURT: You are arguing that he 15 exceeded scope, so he needs to go now? 16 MR. PRYOR: Oh, absolutely. And I didn't 17 object -- 18 THE COURT: What topics did he exceed the 19 scope on? 20 MR. PRYOR: The topics we were just 21 covering. He went through every single RLA claim, 22 every single position. I didn't do any of -- 23 MR. GREENFIELD: Are you willing to 24 concede that you haven't proven those points? 25 MR. PRYOR: I have proven my points. I</p>	<p style="text-align: right;">Page 1473</p> <p>1 didn't ask for legal questions. You went through 2 every one of the legal concepts over my objections. 3 MR. GREENFIELD: Every -- every single -- 4 you are saying you didn't address anything about any 5 of those legal claims? 6 MR. PRYOR: I'm saying you exceeded the 7 scope of direct -- 8 MR. GREENFIELD: I absolutely -- 9 MR. PRYOR: -- about most of your -- 10 MR. GREENFIELD: I absolutely did not. 11 All I did was walk her through her claims against 12 the -- I went very slowly, one, two, three, four -- 13 MR. PRYOR: And I asked factual -- I'm 14 sorry, your Honor, I shouldn't speak. 15 THE COURT: It is fine. You can say your 16 last statement. 17 MR. PRYOR: Nothing further. 18 THE COURT: I think it was sufficiently on 19 topic, right, there were questions that got more in 20 depth. But I go topic by topic, not depth of the 21 question. So I think it is sufficiently on step to 22 where I can't say that I'm boxing you out and you 23 have to ask other questions. 24 So I think you can reserve the rest of 25 your questions for your case in chief.</p>

<p style="text-align: right;">Page 1474</p> <p>1 Which will take the baton back to you.</p> <p>2 MR. PRYOR: It will what?</p> <p>3 THE COURT: It will take the baton back to</p> <p>4 you for round two of the questions on her.</p> <p>5 MR. PRYOR: Okay.</p> <p>6 THE COURT: Ready?</p> <p>7 MR. PRYOR: Yes, sir.</p> <p>8 (Thereupon, the sidebar was concluded and</p> <p>9 the following proceedings were held in open</p> <p>10 court:)</p> <p>11 THE COURT: Okay. So I will let you</p> <p>12 reserve the remainder of your questions for your</p> <p>13 case in chief, which means I need to now ask</p> <p>14 Mr. Pryor if he wants to ask more questions at this</p> <p>15 point.</p> <p>16 MR. PRYOR: Yes, your Honor.</p> <p>17 REDIRECT EXAMINATION</p> <p>18 BY MR. PRYOR:</p> <p>19 Q. Ms. Carter, the discussion about Step 2 process</p> <p>20 and arbitration that you were involved in, those</p> <p>21 were not part of your claims protecting your</p> <p>22 religious activity. That is what this case is</p> <p>23 about?</p> <p>24 MR. McKEEBY: Objection, leading.</p> <p>25 MR. PRYOR: Your Honor, this is redirect.</p>	<p style="text-align: right;">Page 1475</p> <p>1 THE COURT: I will allow this.</p> <p>2 BY MR. PRYOR:</p> <p>3 Q. You can answer.</p> <p>4 A. Correct.</p> <p>5 Q. And, in fact, the protection of your RLA rights</p> <p>6 and your union activity rights, that is part of this</p> <p>7 lawsuit, not part of the Step 2 and arbitration?</p> <p>8 A. Correct.</p> <p>9 Q. Let's look at Exhibit 118. While he's calling</p> <p>10 that up, let me ask you about, you were asked about</p> <p>11 your W-2s and some other documents. And if you were</p> <p>12 working full time, how much would you be making?</p> <p>13 A. Give or take, if I -- 80 to 90 trips a month up</p> <p>14 to 100, at my pay scale, I could make anywhere from</p> <p>15 80- to \$100,000 a year.</p> <p>16 Q. And would that include benefits or it would be</p> <p>17 more with benefits?</p> <p>18 A. It would be more with benefits.</p> <p>19 Q. What do you estimate that to be with benefits?</p> <p>20 A. Well, there is profit sharing. And then there</p> <p>21 is a match of your 401(k). And then they pay a</p> <p>22 certain portion of our medical insurance. And then</p> <p>23 I believe they had been getting bonuses, I know,</p> <p>24 through some of the time, a bonus for -- I don't</p> <p>25 know if it was for -- I know there was a bonus for</p>
<p style="text-align: right;">Page 1476</p> <p>1 the contract, but then there was a bonus after</p> <p>2 companies got money or a tax break or something like</p> <p>3 that.</p> <p>4 MR. McKEEBY: Your Honor, object, this is</p> <p>5 beyond the scope of the --</p> <p>6 MR. PRYOR: He asked about W-2s, he asked</p> <p>7 about --</p> <p>8 THE COURT: I will allow the topic.</p> <p>9 BY MR. PRYOR:</p> <p>10 Q. And what do you estimate that to be?</p> <p>11 A. That is hard to estimate, because I mean, with</p> <p>12 my 401 contribution and -- it -- that is hard.</p> <p>13 Q. Just give me a reasonable estimate. Be more or</p> <p>14 less than 20,000 a year?</p> <p>15 A. Oh, it would be more.</p> <p>16 Q. Okay.</p> <p>17 So 80- to 100,000 in salary and more than</p> <p>18 20,000 in benefits, correct?</p> <p>19 A. Yeah. It -- well, with my 401 and the profit</p> <p>20 sharing.</p> <p>21 Q. And from the time you were terminated -- if you</p> <p>22 were put back in your job today, would you be able</p> <p>23 to go back full time and earn that money?</p> <p>24 A. Oh, yes. My daughter is going to college.</p> <p>25 Q. Okay. Let's look at Exhibit 118.</p>	<p style="text-align: right;">Page 1477</p> <p>1 Now, it said -- it says, "Audrey Stone invite</p> <p>2 Audrey to Messenger" on this exhibit.</p> <p>3 When you sent your message, what Facebook page</p> <p>4 did you send it to?</p> <p>5 A. That is interesting.</p> <p>6 Q. That is why I'm asking.</p> <p>7 A. Yeah, it said -- well, and I said this before,</p> <p>8 it said, Audrey Stone TWU.</p> <p>9 Q. And what does this say?</p> <p>10 A. This just says Audrey Stone.</p> <p>11 Q. Do you know why that is?</p> <p>12 A. She changed it.</p> <p>13 Q. Okay. So after you sent -- when you sent it,</p> <p>14 it was Audrey Stone TWU?</p> <p>15 A. That is correct.</p> <p>16 Q. And we saw that in the core team member</p> <p>17 exhibit, it had Audrey Stone, TWU?</p> <p>18 A. That is correct.</p> <p>19 Q. And then after she brought this complaint, you</p> <p>20 go back to print this out, what does it say?</p> <p>21 A. Well, I don't even -- I think my printouts, I</p> <p>22 thought had the Audrey Stone TWU on it.</p> <p>23 Q. But the one that they have shown you says</p> <p>24 Audrey Stone?</p> <p>25 A. Just Audrey Stone, yes.</p>

<p style="text-align: right;">Page 1478</p> <p>1 Q. Let's look at Exhibit 40. And while they are 2 pulling up Exhibit 40, you were asked about -- can 3 you say anything -- do you recall me asking you on 4 direct -- and maybe you just aren't thinking of 5 this -- but that you can't engage in illegal speech, 6 can you? 7 A. No. 8 Q. You are not asking for that? 9 A. No. 10 Q. If you threaten to shoot somebody or you 11 commit -- say something illegal, you are not asking 12 for the protection for that, are you? 13 A. No. 14 Q. And you have already explained to us you are 15 not asking for unfettered communications in the 16 workplace, correct? 17 A. Correct, yeah, no. 18 Q. Okay. Let's look at Exhibit 40. And it 19 says -- if I can find the section -- in addition, 20 you are required to comply with all company policies 21 and procedures. 22 And at this point, you had been fired, right? 23 A. Correct. 24 Q. And you have been fired for posting on your 25 personal Facebook page?</p>	<p style="text-align: right;">Page 1479</p> <p>1 A. Correct. 2 Q. Asked you about past posts. I'm going to ask 3 you about future posts. So if you posted something 4 in the future, your experience is you get fired? 5 A. Correct. 6 Q. You didn't want to do that? 7 A. No. Because I got -- 8 Q. And, in fact, you would give up your right to 9 sue them when they did fire you, right? 10 A. Correct. 11 Q. And look at that last line, if you do anything 12 in the future that they consider a violation, it 13 will result in termination. Correct? 14 A. Correct. 15 MR. PRYOR: Thank you, ma'am. 16 Oh, wait, hang on one second. 17 Thank you. Pass the witness. 18 THE COURT: Okay. Mr. McKeeby. Round 19 two. 20 MR. McKEEBY: I will reserve questions. 21 THE COURT: All right. Any round two 22 questions, Mr. Greenfield? 23 MR. GREENFIELD: I will save them. 24 THE COURT: Okay. With that, I think you 25 are done for this round. You can leave the stand.</p>
<p style="text-align: right;">Page 1480</p> <p>1 You can return to your seat in the courtroom. 2 And let me ask who Carter is going to call 3 as her next witness? 4 MR. PRYOR: Your Honor, at this time, we 5 call Brett Nevarez by video deposition. I am told 6 this video is a real video deposition. 7 THE COURT: Okay. So hopefully it 8 actually will be video and not have audio that is in 9 and out. 10 MR. PRYOR: And it is very short. 11 THE COURT: Very short. We have got it 12 cued up. 13 So what I will tell y'all is the same 14 thing I told y'all last time on depos. Two things: 15 One is, if someone meets the test for being 16 unavailable legally, then I can allow their prior 17 recorded testimony under oath to be played to you 18 here in court, and this next witness does meet that 19 legal test. You are to credit their testimony the 20 same as if you heard them sitting here on the stand, 21 saying the words they are going to say. 22 The second disclaimer is what I told you 23 part way through the last deposition, which is, you 24 might see the words on the bottom, the transcript. 25 Remember, that transcript is not the evidence. The</p>	<p style="text-align: right;">Page 1481</p> <p>1 evidence is the words you hear the witness say. It 2 is the video you see. The witness and their 3 non-verbal expressions. 4 So that is the evidence. The transcript 5 is just a helpful assistant there for you. 6 With that, we can cue up the video and 7 play it. 8 (Thereupon, the video clip was played and 9 transcribed as follows:) 10 TESTIMONY OF BRETT NEVARES 11 BY MR. PRYOR: 12 Q. Could you tell the jury what it was that your 13 position was with Southwest Airlines in 2000 -- I'm 14 sorry -- with the TWU Local 556 in 2017? 15 A. I was also a negotiating team member. 16 Q. What was your relationship with Audrey Stone? 17 A. I was the second vice president. 18 Q. You ran together -- well, did -- did you ever 19 run for election together? 20 A. Yes. 21 Q. Did you frequently work together? 22 A. Yes. 23 Q. Union business and in your flying, is that 24 right? 25 A. Yes.</p>

<p style="text-align: right;">Page 1482</p> <p>1 Q. Did you consider her a good friend?</p> <p>2 A. I still do, yes.</p> <p>3 Q. Did you consider her a confidante?</p> <p>4 A. Yes.</p> <p>5 Q. Do you know whether she considered you a</p> <p>6 confidante?</p> <p>7 A. Yes, I believe so.</p> <p>8 Q. Would she frequently consult you on important</p> <p>9 decisions that she made?</p> <p>10 A. Yes.</p> <p>11 Q. Did she consult you when she received a message</p> <p>12 from Charlene Carter that she eventually submitted a</p> <p>13 complaint to Southwest about?</p> <p>14 A. Yes.</p> <p>15 Q. And what did you tell her?</p> <p>16 A. I told her that the video was offensive.</p> <p>17 Q. Did you suggest that she submit a complaint?</p> <p>18 A. Yes.</p> <p>19 Q. When she submitted the complaint, did you</p> <p>20 understand her to be doing that in her role as union</p> <p>21 president?</p> <p>22 A. She never discon -- I mean, she's the president</p> <p>23 of the Union. You can't separate the roles between</p> <p>24 flight attendant and employee and president of the</p> <p>25 union, in my opinion.</p>	<p style="text-align: right;">Page 1483</p> <p>1 Q. You supported her making that complaint in her</p> <p>2 role as union president, right?</p> <p>3 A. Yes.</p> <p>4 MR. HILL: Your Honor, this is the</p> <p>5 counter.</p> <p>6 THE COURT: Yes.</p> <p>7 MR. HILL: Can you tell the jury who is</p> <p>8 asking?</p> <p>9 BY MR. McKEEBY:</p> <p>10 Q. He is wearing his neck tie, and I have a couple</p> <p>11 of questions for you.</p> <p>12 A. Okay.</p> <p>13 Q. You mentioned that when you met with Ms. Stone</p> <p>14 in Baltimore, she was distraught.</p> <p>15 Can you explain to the jury a little bit more</p> <p>16 about what you meant by that?</p> <p>17 A. She was crying and could barely speak. She</p> <p>18 just handed me her phone and I -- I turned the video</p> <p>19 on.</p> <p>20 Q. Had she received one or two videos at that</p> <p>21 point or did you know?</p> <p>22 A. I -- I only watched a few seconds of one video.</p> <p>23 That was enough for me to know I didn't want to</p> <p>24 watch any more.</p> <p>25 Q. Do you know if there were two videos or --</p>
<p style="text-align: right;">Page 1484</p> <p>1 A. I don't know if there were two or if it was</p> <p>2 sent twice. Instant Message is very inconsistent.</p> <p>3 Q. Did you have to click on the video to make it</p> <p>4 play?</p> <p>5 A. Yes.</p> <p>6 Q. And it was on her phone?</p> <p>7 A. Yes.</p> <p>8 Q. And she handed it to you and you observed it at</p> <p>9 that meeting in Baltimore?</p> <p>10 A. Yes.</p> <p>11 Q. Did she indicate when she had received it?</p> <p>12 A. Earlier that day.</p> <p>13 Q. Did she indicate to you where she had viewed</p> <p>14 it?</p> <p>15 A. Where she had?</p> <p>16 Q. Yes. Where was she when she watched it, if she</p> <p>17 indicated that to you?</p> <p>18 A. No. I -- no. I don't think she told me that.</p> <p>19 I just assumed there at the facility. We were at</p> <p>20 the Maritime facility outside the</p> <p>21 Baltimore-Washington airport.</p> <p>22 Q. I forget if Mr. Greenfield asked you this, but</p> <p>23 have you ever turned in an employee, a Southwest</p> <p>24 employee, for violation of the social media policy?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 1485</p> <p>1 Q. Have you ever been turned in for violating the</p> <p>2 social media policy?</p> <p>3 A. Yes.</p> <p>4 Q. Who did that?</p> <p>5 A. I don't know.</p> <p>6 Q. What was the violation -- alleged violation?</p> <p>7 A. It was a Facebook post that was turned in to</p> <p>8 management.</p> <p>9 Q. What did you post?</p> <p>10 A. I posted that Lynn was being discriminatory. I</p> <p>11 believed it to be union-protected speech. That she</p> <p>12 had posted some -- she behaved derogatorily in a</p> <p>13 Dallas membership meeting.</p> <p>14 Q. Who was that?</p> <p>15 A. Lynn Montgomery, the president.</p> <p>16 Q. What does the concept of union-protected speech</p> <p>17 mean to you?</p> <p>18 A. That management can't hold what's said in a</p> <p>19 membership meeting against a member.</p> <p>20 (Thereupon, the video clip concluded.)</p> <p>21 MR. PRYOR: That concludes it, your Honor.</p> <p>22 And I must admit I'm losing faith in the quality of</p> <p>23 these Zoom deposition offerings. I thought it would</p> <p>24 be better. Slightly better.</p> <p>25 THE COURT: It is quite all right. So</p>

<p style="text-align: right;">Page 1486</p> <p>1 does Carter have another witness to call?</p> <p>2 MR. PRYOR: No, your Honor.</p> <p>3 We would like to publish Exhibit 138.</p> <p>4 THE COURT: Yes, you can do so. So I will</p> <p>5 just tell the jury, there was a time where I</p> <p>6 admitted Exhibit 138, but I don't think I had the</p> <p>7 jury screens un-muted, and so that was my fault. We</p> <p>8 are going to un-mute the screens, we're showing you</p> <p>9 Exhibit 138, so it doesn't surprise you when you</p> <p>10 have access to it back in the jury room.</p> <p>11 MR. PRYOR: Thank you, your Honor.</p> <p>12 Subject to rebuttal, Carter rests.</p> <p>13 THE COURT: Okay. So what I will do is,</p> <p>14 then, any time we get a party rest, then I have to</p> <p>15 ask y'all to go take a break. We have legal issues</p> <p>16 that we have to talk about. I wish that would have</p> <p>17 come later, but there is no way to control these</p> <p>18 things.</p> <p>19 So I'm going to give y'all your early</p> <p>20 afternoon break super early. And so same</p> <p>21 instructions: Can't talk to anyone about the case,</p> <p>22 you can only talk to your fellow jurors and court</p> <p>23 personnel, just not about the case; and can't do any</p> <p>24 research about the case. With that, we will call</p> <p>25 you back as soon as we are done with the legal</p>	<p style="text-align: right;">Page 1487</p> <p>1 issues.</p> <p>2 All rise for the jury.</p> <p>3 (The jurors exited the courtroom.)</p> <p>4 THE COURT: Okay. You can take a seat.</p> <p>5 Okay. So Defendants, Union, Southwest, anyone need</p> <p>6 to make a motion at this point?</p> <p>7 MR. McKEEBY: Yes, your Honor.</p> <p>8 Southwest would like to make a motion</p> <p>9 under Rule 50 as a matter of law -- I'm sorry,</p> <p>10 should I take the podium or --</p> <p>11 THE COURT: That's great.</p> <p>12 MR. McKEEBY: Yes, so let me just start</p> <p>13 again.</p> <p>14 Southwest makes a motion under Rule 50 for</p> <p>15 judgment as a matter of law, and there is a</p> <p>16 component of my motion that will be check the box,</p> <p>17 but this isn't it.</p> <p>18 Your Honor, we don't disagree that some</p> <p>19 degree of protected activity, at least as the Court</p> <p>20 has construed the RLA, has been introduced by</p> <p>21 Ms. Carter.</p> <p>22 The messages are sort of a combination of</p> <p>23 communications embedded in other messages. Some of</p> <p>24 which involved things like the recall election,</p> <p>25 involve things like how the union spends dues, and</p>
<p style="text-align: right;">Page 1488</p> <p>1 otherwise expends its money, and about participation</p> <p>2 in the Women's March.</p> <p>3 And all of that goes to protected</p> <p>4 activity, which is an element of the claim under the</p> <p>5 RLA.</p> <p>6 But what there is no evidence of, is that</p> <p>7 any decision-maker at Southwest was motivated by any</p> <p>8 of those things in deciding to terminate</p> <p>9 Ms. Carter's employment. There is not sufficient</p> <p>10 evidence to go to the jury on the claim for that</p> <p>11 reason.</p> <p>12 As the Court recognized earlier today,</p> <p>13 this is a novel claim that requires some proof that</p> <p>14 Southwest would retaliate against someone based on</p> <p>15 their objection to the union.</p> <p>16 And I would respectfully submit that in</p> <p>17 this case, while there is evidence of protected</p> <p>18 conduct, again, as the Court construes the RLA --</p> <p>19 and I will get to that in the second part of the</p> <p>20 presentation -- but there is no evidence to support</p> <p>21 the notion that the Southwest decision-makers</p> <p>22 considered these things in terminating Ms. Carter's</p> <p>23 employment.</p> <p>24 The only thing that arguably has any</p> <p>25 connection is the timing of Southwest's decision</p>	<p style="text-align: right;">Page 1489</p> <p>1 relative to its discovery of the protected conduct.</p> <p>2 But the court cases are pretty clear that timing is</p> <p>3 not sufficient to establish a connection between</p> <p>4 protected activity and retaliatory motive.</p> <p>5 Particularly here, your Honor, because it is no</p> <p>6 surprise that the -- Southwest's knowledge of the</p> <p>7 RLA-protected activity came when it did. It was</p> <p>8 part of the investigation, part of the report of</p> <p>9 Stone that provided that information.</p> <p>10 So it was part and parcel of both the</p> <p>11 complaint and the investigation. So it doesn't have</p> <p>12 the same -- the same inferential strength as in most</p> <p>13 cases. And I would cite to the Court to the</p> <p>14 decision such as Strong v. University Healthcare</p> <p>15 System, LLC, 482F.3d 802 at 808, that stand for the</p> <p>16 proposition that proximity in time alone is not</p> <p>17 sufficient to support retaliatory motive in</p> <p>18 connection with protected conduct.</p> <p>19 And there is no other evidence in the</p> <p>20 record to support the notion that Ed Schneider or</p> <p>21 anyone else at Southwest terminated Ms. Carter's</p> <p>22 employment because she was a union objector, because</p> <p>23 she participated in the recall collection, because</p> <p>24 she complained about the Women's March or because</p> <p>25 she complained about how dues' member money was</p>

<p style="text-align: right;">Page 1490</p> <p>1 spent.</p> <p>2 This testimony about the reasons for the</p> <p>3 termination have not been rebutted with any</p> <p>4 evidence, other than speculation and conjecture, to</p> <p>5 the point where we are talking about emails in 2013</p> <p>6 that were sent by union loyalists to a Southwest</p> <p>7 executive who wasn't even involved in the decision.</p> <p>8 And the notion was that, well, you know, she didn't</p> <p>9 stop and tell Mr. Schneider about this past history</p> <p>10 four years ago, so that should create the inference</p> <p>11 of retaliation to support this claims.</p> <p>12 That is just not sufficient evidence to go</p> <p>13 to a -- it is not evidence to go to a jury to</p> <p>14 support the RLA claim.</p> <p>15 And there is nothing else other than the</p> <p>16 proximity in time. Again, that is not sufficient.</p> <p>17 So that is the RLA claim.</p> <p>18 And frankly, the -- the claims under Title</p> <p>19 VII are even more tenuous. Because there is, again,</p> <p>20 yes, she explained during the fact-finding meeting</p> <p>21 that she was a Christian and that she opposed</p> <p>22 abortion. We understand that.</p> <p>23 And that creates some proximity in time</p> <p>24 between Southwest's receipt of that information and</p> <p>25 the termination decision.</p>	<p style="text-align: right;">Page 1491</p> <p>1 But, again, that is not sufficient and</p> <p>2 there is absolutely nothing in the record to connect</p> <p>3 Ms. Carter's religious beliefs to her termination</p> <p>4 from employment. No -- no comparators, no other</p> <p>5 employees who were treated preferentially based on</p> <p>6 the fact that they were non-Christians, no negative</p> <p>7 comments about her religion, nothing like that.</p> <p>8 The best that they can do is to point to</p> <p>9 that Women's March, your Honor, and say, see,</p> <p>10 Southwest terminated Ms. Carter because she talked</p> <p>11 about her opposition to abortion, but they let those</p> <p>12 women march in Washington and didn't discipline</p> <p>13 them.</p> <p>14 But, your Honor, there are -- those women</p> <p>15 are not similarly situated to Ms. Stone for the</p> <p>16 purposes of this -- excuse me, Ms. Carter -- for the</p> <p>17 purposes of this case. They participated in a</p> <p>18 general march regarding women's rights. They --</p> <p>19 they -- there was no indication that they did</p> <p>20 anything other than carry one banner that was put</p> <p>21 into evidence that said in small letters, you know,</p> <p>22 the flight attendants Local 556, Flight Attendants</p> <p>23 of Southwest airlines.</p> <p>24 The only -- they didn't carry signs that</p> <p>25 said, we are pro choice and we're proud of it or</p>
<p style="text-align: right;">Page 1492</p> <p>1 anything like that. The only sign that is in</p> <p>2 evidence is a cardboard sign that the union posted</p> <p>3 on its website, that said -- had three boxes, one of</p> <p>4 which said "My body, my choice." But we don't know</p> <p>5 if that is a Southwest Airlines employee or not. It</p> <p>6 is -- there is no proof of that in the record.</p> <p>7 And even if there were, it wouldn't matter</p> <p>8 because that is politics; that is political speech.</p> <p>9 What they would have to do, and the</p> <p>10 inferential leap they want this jury to make, is</p> <p>11 that all of the women who participated in that march</p> <p>12 have different religious views than Ms. Carter. And</p> <p>13 they don't have that evidence.</p> <p>14 There were dozens of women in those</p> <p>15 pictures. They want to let the jury infer that,</p> <p>16 well, they are participating in a Women's March,</p> <p>17 they, therefore, must be pro choice -- may be</p> <p>18 reasonable so far, but still not in evidence. And</p> <p>19 finally, they must not be Christian, therefore, they</p> <p>20 are similarly situated and were treated disparately</p> <p>21 to Ms. Carter. That is not a reasonable inference</p> <p>22 that can support this claim and allow it to go to</p> <p>23 this jury.</p> <p>24 So for that reason, the discrimination</p> <p>25 claims fails as a matter of law.</p>	<p style="text-align: right;">Page 1493</p> <p>1 The accommodation claim, your Honor, I</p> <p>2 would also like to address. The problem with</p> <p>3 that -- I don't think it is distinct at all from the</p> <p>4 religious discrimination claims because Ms. Carter</p> <p>5 hasn't identified, really, what the accommodation</p> <p>6 is.</p> <p>7 Her testimony is vague, and there is no</p> <p>8 indication that her religious beliefs conflicted</p> <p>9 with any policy. When I asked her on cross if she</p> <p>10 violated a policy, she said no, she said she didn't</p> <p>11 violate any policy, which is a requirement to show</p> <p>12 that you need an accommodation.</p> <p>13 So I think at the end of the day, it is</p> <p>14 not a claim that is distinct from her substantive</p> <p>15 religious discrimination claim, and she otherwise</p> <p>16 has not met the elements of a failure to accommodate</p> <p>17 claim.</p> <p>18 I would also submit that there is no</p> <p>19 evidence to support instructing this jury on</p> <p>20 punitive damages, at least with respect to the</p> <p>21 claims against Southwest. There is no evidence of</p> <p>22 malice or reckless disregard for the protected</p> <p>23 rights of Ms. Carter under federal law.</p> <p>24 And now to the check-the-box portion of my</p> <p>25 presentation. This is from our motion for summary</p>

<p style="text-align: right;">Page 1494</p> <p>1 judgment, of course.</p> <p>2 I would like to reurge the arguments</p> <p>3 regarding the preclusive effect of the binding</p> <p>4 arbitration agreement in this case, as presented to</p> <p>5 the judge, and the Court, that Ms. Carter has no</p> <p>6 private right of action under the RLA in this</p> <p>7 context, given that she cannot show and has not</p> <p>8 attempted to show union animus, as that concept is</p> <p>9 considered by courts in this context; that this</p> <p>10 court lacks jurisdiction over this dispute because</p> <p>11 it is a post-certification minor dispute.</p> <p>12 And, again, as to the religious</p> <p>13 discrimination, that claim that she failed to</p> <p>14 exhaust her administrative remedies, and, therefore,</p> <p>15 cannot bring an accommodation claim against</p> <p>16 Southwest Airlines.</p> <p>17 Thank you, your Honor.</p> <p>18 THE COURT: Understood. Thank you, Mr.</p> <p>19 McKeeby.</p> <p>20 Before I hear a response from Carter, can</p> <p>21 I hear what motion you might have, Mr. Greenfield?</p> <p>22 Because if you are chiming in adding on to some of</p> <p>23 his motion, then I think I should just hear from</p> <p>24 Carter all at once at the end.</p> <p>25 MR. GREENFIELD: Yes, your Honor. Would</p>	<p style="text-align: right;">Page 1495</p> <p>1 you like me to take the podium or --</p> <p>2 THE COURT: That is fine by me, if you</p> <p>3 want to.</p> <p>4 MR. GREENFIELD: I don't need to. I think</p> <p>5 the arguments are very similar. And so the union</p> <p>6 would just echo the request for motion of directed</p> <p>7 verdict regarding, again, the preclusive effect of</p> <p>8 the arbitration. And similarly, on the religious --</p> <p>9 the religious discrimination claims, again, there</p> <p>10 has been no -- Ms. Carter just took the stand, she</p> <p>11 could not identify any individual that is a</p> <p>12 non-Christian that she felt was treated more</p> <p>13 favorably than she was.</p> <p>14 And in regard to the reasonable</p> <p>15 accommodation claim, the accommodation that</p> <p>16 Ms. Carter requested was, in fact, to be able to say</p> <p>17 whatever she wanted to, to Ms. Stone, as long as it</p> <p>18 was tied to her religious beliefs, and that cannot</p> <p>19 possibly be an accommodation.</p> <p>20 And again, at this time, I would then ask</p> <p>21 the Court if I could reapply for my affirmative</p> <p>22 defense in regard to undue burden on that issue.</p> <p>23 THE COURT: Understood.</p> <p>24 So I will overrule your request for undue</p> <p>25 burden affirmative defense at this time for the</p>
<p style="text-align: right;">Page 1496</p> <p>1 reasons I said earlier.</p> <p>2 But I would like to hear from Carter on</p> <p>3 the response to both of those motions from Southwest</p> <p>4 and the Union.</p> <p>5 MR. GILLIAM: Yes. I would like to come</p> <p>6 here if I could because I have the podium in my way</p> <p>7 and I can't see you.</p> <p>8 THE COURT: That is true.</p> <p>9 MR. GILLIAM: This makes it a little bit</p> <p>10 easier.</p> <p>11 It is notable that Southwest can't point</p> <p>12 to any unprotected activity that Carter engaged in</p> <p>13 in support of its motion.</p> <p>14 What is clear here is that they fired her</p> <p>15 for her Facebook videos and messages, both privately</p> <p>16 sent to Stone and posted on her own personal</p> <p>17 Facebook page. All of those message were protected.</p> <p>18 Southwest fired her for those messages.</p> <p>19 So there is abundant evidence that</p> <p>20 Southwest discriminated against her for her</p> <p>21 religious beliefs and that they retaliated against</p> <p>22 her for her protected activities, and the same with</p> <p>23 the union on all three claims with the union.</p> <p>24 They -- her protected activities were</p> <p>25 clearly a motivated factor -- motivating factor</p>	<p style="text-align: right;">Page 1497</p> <p>1 under the RLA retaliation claims, because they took</p> <p>2 them into consideration. Ed Schneider's</p> <p>3 investigation summary notes, exhibit -- trial</p> <p>4 Exhibit 107 reflect that. He's summarizing what he</p> <p>5 found, and what he found included both Ms. -- well,</p> <p>6 he was reflecting on how Ms. Carter latched on to</p> <p>7 her Christian beliefs in her fact-finding meeting,</p> <p>8 and he -- he enumerated that as a factor. He</p> <p>9 enumerated all of her RLA-protected activities as a</p> <p>10 factor.</p> <p>11 So they want to say that, oh, we didn't</p> <p>12 fire Ms. Carter for her protected activities, we</p> <p>13 fired her because she violated the social media</p> <p>14 policies.</p> <p>15 But that is the point of protection. The</p> <p>16 point of RLA protection and the point of Title VII's</p> <p>17 protections is that she not be fired just because it</p> <p>18 violates the social media policies.</p> <p>19 I would also say, moving to the failure to</p> <p>20 accommodate claim, is that Southwest was confronted</p> <p>21 with Ms. Carter's religious beliefs at the</p> <p>22 fact-finding hearing. Ms. Carter told them</p> <p>23 specifically that she was a Christian who has to get</p> <p>24 the word out, who shares the word out. That is her</p> <p>25 observance and -- of her religious beliefs and her</p>

<p style="text-align: right;">Page 1498</p> <p>1 practices.</p> <p>2 Yet, what did Ed Schneider do with that</p> <p>3 information? He did nothing. He knew that he could</p> <p>4 have reported it to the ACT team, and employee</p> <p>5 relations could have reported it to the ACT team.</p> <p>6 But they didn't. They recognized it was a protected</p> <p>7 category, Mr. Schneider's testimony shows that, but</p> <p>8 they did nothing. They knowingly evaded their</p> <p>9 obligation to make accommodation efforts for</p> <p>10 Ms. Carter's religious belief.</p> <p>11 What was the accommodation that Ms. Carter</p> <p>12 needed? It was to not be fired. EEOC v.</p> <p>13 Abercrombie and Fitch says that firing an employee</p> <p>14 because of their religious beliefs or failing to</p> <p>15 accommodate an employee because of her religious</p> <p>16 beliefs is synonymous with religious discrimination.</p> <p>17 Shifting to the union briefly here, so</p> <p>18 again, there, it is similar. The violation here of</p> <p>19 the RLA, the RLA retaliation was that</p> <p>20 President Stone turned Ms. Stone in, despite its</p> <p>21 duty as the exclusive bargaining representative, to</p> <p>22 treat all employees and protect all employees.</p> <p>23 She turned Ms. Carter in, and in her</p> <p>24 complaint, Exhibit 66, she's turning her in because</p> <p>25 Ms. Carter sent her videos about a march she</p>	<p style="text-align: right;">Page 1499</p> <p>1 participated in.</p> <p>2 She talks about the Women's March. She</p> <p>3 says that the march that TWU participated in. And</p> <p>4 she turns her in for that.</p> <p>5 She also turns her in for, quote, unquote,</p> <p>6 "religious comments" she made. And she gives these</p> <p>7 posts that Ms. Carter sent her, these videos that</p> <p>8 Ms. Carter sent her of -- of the aborted babies.</p> <p>9 She, President Stone, enumerates all of</p> <p>10 the policies that she thought that Ms. Carter had</p> <p>11 violated. She's -- she's taking these posts to</p> <p>12 Southwest management as someone who engages</p> <p>13 Southwest management ordinarily to negotiate</p> <p>14 clemency for employees.</p> <p>15 But rather than negotiate clemency for</p> <p>16 employees, this time, in her official capacity,</p> <p>17 she's trying to have the employee be fired.</p> <p>18 As for the religious discrimination claim,</p> <p>19 again, Exhibit 66, Ms. Stone's complaint is turning</p> <p>20 Ms. Carter in explicitly for her religious comments.</p> <p>21 Now, that is, per se, disparate treatment</p> <p>22 from all other represented employees because the</p> <p>23 union, how is it supposed to treat all non-Christian</p> <p>24 employees? Well, how does it treat all</p> <p>25 non-Christians employees? It doesn't turn them in,</p>
<p style="text-align: right;">Page 1500</p> <p>1 it represents them. But Ms. Stone is turning in</p> <p>2 Ms. Carter because of her, quote, unquote,</p> <p>3 "religious comments," and the videos of the aborted</p> <p>4 babies.</p> <p>5 Let me see just if I missed anything here</p> <p>6 in my notes.</p> <p>7 I guess I just reiterate, too, that these</p> <p>8 Facebook videos and messages are all RLA-protected</p> <p>9 activity. She's talking about the recall. She's</p> <p>10 talking about how objector fees are being spent at</p> <p>11 the Women's March. She's talking -- Ms. Carter is</p> <p>12 talking about what the union did, how it represented</p> <p>13 employees at the Women's March. She's talking about</p> <p>14 a union event, and how they participated in the</p> <p>15 union event, and she's criticizing the event, which</p> <p>16 is her right.</p> <p>17 So for all of those reasons, I oppose</p> <p>18 their motion for directed verdict and I think the</p> <p>19 Court should reject it.</p> <p>20 THE COURT: Thank you, Mr. Gilliam.</p> <p>21 Okay. So thank you for the arguments.</p> <p>22 What I will do at this point is I will deny the</p> <p>23 motions. I never state my reasons why. I wish I</p> <p>24 could. I have got plenty of reasons for that, but</p> <p>25 it is unwise of me if I start going into the reasons</p>	<p style="text-align: right;">Page 1501</p> <p>1 why I deny your motions.</p> <p>2 So what I think I should do is let y'all</p> <p>3 take a short break to regroup for the handing of the</p> <p>4 baton over.</p> <p>5 Who is going to go first? It is you going</p> <p>6 first, Mr. McKeeby?</p> <p>7 MR. McKEEBY: Yes.</p> <p>8 THE COURT: Okay. So you can get your</p> <p>9 witness ready. Who are you going call to first?</p> <p>10 MR. McKEEBY: I am going to call Maureen</p> <p>11 Emlet first. And I'm kind of having to make some</p> <p>12 decisions about witnesses somewhat on the fly, as I</p> <p>13 know --</p> <p>14 THE COURT: Yes, sir.</p> <p>15 MR. McKEEBY: -- Carter's counsel as well.</p> <p>16 We have got two other witnesses who will be here. I</p> <p>17 think I'm going to call the shorter witness first,</p> <p>18 with the thought that we may or may not get -- that</p> <p>19 would be Ms. Hudson.</p> <p>20 THE COURT: Okay.</p> <p>21 MR. McKEEBY: She would go after</p> <p>22 Ms. Emlet, assuming she's here on time -- or here</p> <p>23 when we need here. And if she's not, then we will</p> <p>24 call Mr. Schneider.</p> <p>25 But those -- their order will depend on --</p>

<p style="text-align: right;">Page 1502</p> <p>1 on kind of the length of things.</p> <p>2 THE COURT: All right. That makes sense.</p> <p>3 So what we can do is, then, let's go ahead and take</p> <p>4 maybe an eight-minute break. When we come back, if</p> <p>5 you want to go ahead and have Ms. Emlet on the</p> <p>6 stand, then that's fine. You can be at the podium.</p> <p>7 And then I will let you haul off and get started.</p> <p>8 And then I will let Union question all of</p> <p>9 these witnesses second.</p> <p>10 And then we will go to you third,</p> <p>11 Mr. Pryor, for examination of Southwest witnesses.</p> <p>12 Does that make sense?</p> <p>13 MR. PRYOR: What are we doing?</p> <p>14 THE COURT: Okay. Any other questions</p> <p>15 before we take our eight-minute break?</p> <p>16 Okay. I will see y'all back here --</p> <p>17 Yes?</p> <p>18 MR. McKEEBY: I do intend to introduce the</p> <p>19 Exhibit 147 through Ms. Emlet.</p> <p>20 THE COURT: Through Emlet.</p> <p>21 MR. McKEEBY: Right. So I don't know if</p> <p>22 that is an issue we want to take up after the break</p> <p>23 or now.</p> <p>24 THE COURT: Let's go ahead and try to talk</p> <p>25 through it now. So 147 is the exhibit that, on</p>	<p style="text-align: right;">Page 1503</p> <p>1 Friday, you told them that you wanted to put into</p> <p>2 evidence.</p> <p>3 MR. McKEEBY: Right.</p> <p>4 THE COURT: So tell me why you think it is</p> <p>5 proper, and I will hear their objection.</p> <p>6 MR. McKEEBY: Sure. I mean, it is --</p> <p>7 basically, what happened was, that there are --</p> <p>8 apparently unbeknownst to me until recently --</p> <p>9 different versions of the bullying and hazing</p> <p>10 policing policy. And the document that we had as an</p> <p>11 exhibit was not the same version of the policy that</p> <p>12 Mr. Schneider used at the fact-finding meeting, in</p> <p>13 which he considered in connection -- it is relevant</p> <p>14 or it came up because of this -- the language about</p> <p>15 cyberbullying.</p> <p>16 That is not in the exhibit that we</p> <p>17 provided to the Court and so -- it is in the actual</p> <p>18 policy that Mr. Schneider went over with Ms. Carter</p> <p>19 at the fact-finding meeting. And it was simply a</p> <p>20 matter of I didn't realize that there was a separate</p> <p>21 version of the document.</p> <p>22 And so once I found that out, realized</p> <p>23 that, then I advised counsel for plaintiff that,</p> <p>24 hey, we have got an older version that is the</p> <p>25 exhibit. The correct version is what is Exhibit</p>
<p style="text-align: right;">Page 1504</p> <p>1 147, and we would ask that be allowed to use that.</p> <p>2 And I understand that it may mean that</p> <p>3 they need to question Mr. Schneider or Ms. Emlet</p> <p>4 about the policy and cross-examine him about that.</p> <p>5 And I don't think they should be, you know, punished</p> <p>6 in terms of their time on that. So I'm willing to,</p> <p>7 you know, entertain that, certainly as -- as a</p> <p>8 concession.</p> <p>9 But that is the right policy and it should</p> <p>10 be in front of the jury for them to make the, you</p> <p>11 know, most informed decision that they can.</p> <p>12 THE COURT: Understood. Response?</p> <p>13 MR. PRYOR: Your Honor, I have a document</p> <p>14 I would like to mark for the Court to look at.</p> <p>15 Should I call it Appendix 1 or how would you like</p> <p>16 to -- I would like it to be part of the record.</p> <p>17 THE COURT: Part of this record, but not</p> <p>18 part of the -- what the jury --</p> <p>19 MR. PRYOR: Correct, your Honor.</p> <p>20 THE COURT: Sure. I'm happy for you to</p> <p>21 mark it as Appendix 1, and then you can bring it up</p> <p>22 to Mr. Frye -- yeah, let's call it Court Exhibit 1,</p> <p>23 maybe.</p> <p>24 MR. PRYOR: I put Appendix 1 up here.</p> <p>25 I'll have him rewrite Court Exhibit 1 on</p>	<p style="text-align: right;">Page 1505</p> <p>1 it, and then --</p> <p>2 May I approach, your Honor?</p> <p>3 THE COURT: You may.</p> <p>4 MR. PRYOR: It is an email we received</p> <p>5 before the trial began in this case in which</p> <p>6 Southwest Airlines listed their exhibits.</p> <p>7 One of the exhibits they listed, and I</p> <p>8 attached the exhibit, is Exhibit 13. That is the</p> <p>9 workplace bullying and hazing policy.</p> <p>10 And prior to trial -- three days before</p> <p>11 trial -- we had a few exhibits that we sought to</p> <p>12 add, and Southwest and the union took the position</p> <p>13 that was prejudicial. We ended up being able to</p> <p>14 utilize those exhibits.</p> <p>15 This was an exhibit that was utilized at</p> <p>16 trial, and was certainly a large part of my</p> <p>17 examination of Mr. Schneider focusing on the</p> <p>18 workplace issue in that policy.</p> <p>19 And focusing on the fact there was nothing</p> <p>20 about cyberbullying in it.</p> <p>21 And I did this based on this is the policy</p> <p>22 they put forward. So I questioned about their</p> <p>23 policy. Now they are saying, no, it is the wrong</p> <p>24 policy. And it is highly prejudicial to us at this</p> <p>25 point to now admit it after we have examined the</p>

<p style="text-align: right;">Page 1506</p> <p>1 witness and the evidence has come in. 2 Counsel is telling you that, well, the 3 truth of it, it is -- there is a more updated 4 policy. And I'm all for getting to the truth, but 5 their opportunity to do that came before they listed 6 their exhibits. It certainly came at the time I was 7 questioning the witness about it, and they didn't 8 raise it then. So changing the exhibit in the 9 middle of the trial we find prejudicial. 10 And, your Honor, I move for the admission 11 of Appendix 1. I'm not even sure that -- I just 12 want to -- if you need authentication from me, I'm 13 more than happy to swear to it, is all I'm saying. 14 THE COURT: I will admit this as Court 15 Exhibit 1 for the purposes of this hearing, not for 16 the purposes of jury evidence. 17 MR. PRYOR: That's right. 18 THE COURT: Okay. So what I'm going to do 19 is, I'm going to think about this over our 20 eight-minute break, come back, and I will tell you 21 what I'm going to do with Exhibit 147 one way or 22 another. 23 MR. McKEEBY: Can I raise one other issue, 24 your Honor? 25 THE COURT: You may.</p>	<p style="text-align: right;">Page 1507</p> <p>1 MR. McKEEBY: The exhibit -- or, rather 2 the policy with the cyberbullying concept language 3 is set forth in the fact-finding meeting on -- at 4 Exhibit 198.15, where he goes over -- Mr. Schneider 5 goes over the policy with the plaintiff and 6 discusses -- 7 MR. PRYOR: What exhibit? 8 MR. McKEEBY: This is 98.15. 98.15. And 9 so it references -- he's quoting from the policy -- 10 MR. PRYOR: May I -- 11 MR. McKEEBY: Okay. Yeah, sure, sure. 12 He's quoting from the policy that is at 13 147, and it references cyberbullying. So it is in a 14 document that both sides admitted -- or requested as 15 an exhibit that was introduced already and 16 introduced through plaintiff's witnesses. 17 MR. PRYOR: That -- 18 MR. McKEEBY: So this was already in -- 19 this was in the record, and it is clear that he's 20 talking about this updated version of the policy. 21 So they can examine him and cross-examine 22 him about -- about the previous policy. And advise 23 the jury on that, but the jury should hear the right 24 policy. 25 MR. PRYOR: I understand the last</p>
<p style="text-align: right;">Page 1508</p> <p>1 argument, but the argument he just made to support 2 it, I don't think does. This is someone's 3 handwritten notes. She's testified she doesn't 4 recall them going over this with -- with her at all. 5 She's testified they didn't talk to her about it. 6 Somebody's notes, and who wrote "including 7 cyberbullying" still doesn't state that that is what 8 the policy said. They don't say that this is the 9 cyberbullying policy. They are saying, you are 10 violating cyberbullying. 11 So I don't find someone's notes to 12 overcome what they have said their policy is, and 13 that we questioned their witness about. I just 14 think it -- I get it, but it is just -- if we were 15 before trial, fine. But during trial, after I have 16 questioned the witness with a document they listed 17 that is their policy, I have a problem with it. Can 18 we correct it with some time and cross? That I 19 think it is prejudicial. 20 MR. McKEEBY: One other point, your Honor. 21 Counsel for Carter indicated that defendants, 22 plural, objected to the supplemental exhibits that 23 Ms. Carter tried to file -- or did file prior to 24 trial that the union did object, Southwest did not 25 object. So I would like to point that point.</p>	<p style="text-align: right;">Page 1509</p> <p>1 MR. PRYOR: You did not object? 2 MR. McKEEBY: I did not. 3 MR. PRYOR: Okay. I stand corrected, 4 then. I see an objection from the union. You 5 didn't join? 6 MR. McKEEBY: No. 7 THE COURT: Understood. Okay. I get the 8 arguments. So let's come back at 2:26. We will 9 tell the jury 2:26 is when we are coming back on. 10 And I will give y'all the ruling on 147 before we 11 put Emlet on the stand. 12 MR. McKEEBY: Thank you. 13 THE COURT: Well, you can put Emlet on the 14 stand. I will give you the ruling. That will be 15 fine. 16 THE COURT SECURITY OFFICER: All rise. 17 (Recess.) 18 THE COURT SECURITY OFFICER: All rise. 19 THE COURT: Y'all can be seated. 20 Okay. So here's my ruling on 147. On 21 147, I'm more focused on good cause than prejudice. 22 Here is why: Once we cross the threshold of trial 23 and we are into trial and it is an exhibit that we 24 have talked about with a witness already, then I am 25 fixated more on what good cause is, and then we get</p>

<p style="text-align: right;">Page 1510</p> <p>1 to prejudice next.</p> <p>2 I think page 15 of document number 98,</p> <p>3 shows me that really Southwest was on notice back in</p> <p>4 2017 of what the right policy was at the time that</p> <p>5 it was being used with Ms. Carter. So I don't see a</p> <p>6 good cause basis to let it in at this point.</p> <p>7 So part of this, I have been trying to</p> <p>8 think of create ways separate and apart from, you</p> <p>9 know, timing and not counting that against them, but</p> <p>10 I really still can't get past the good cause</p> <p>11 threshold.</p> <p>12 So with that, I'm going to keep out</p> <p>13 Exhibit 147. You can still move for its admission</p> <p>14 with the jury in the box. That is totally fine.</p> <p>15 MR. McKEEBY: Okay. Thank you, your</p> <p>16 Honor.</p> <p>17 THE COURT: Okay. So we should call in</p> <p>18 the jury, and then we will stand up and swear you in</p> <p>19 once the jury is here. All rise for the jury.</p> <p>20 (The jurors entered the courtroom.)</p> <p>21 THE COURT: All right. You can be seated.</p> <p>22 And now we pass the baton and the case</p> <p>23 over to Southwest Airlines.</p> <p>24 So, Mr. McKeeby, you can call your first</p> <p>25 witness, which you have graciously already done for</p>	<p style="text-align: right;">Page 1511</p> <p>1 me.</p> <p>2 MR. McKEEBY: Southwest calls Maureen</p> <p>3 Emlet.</p> <p>4 THE COURT: Okay. Ms. Emlet, can you</p> <p>5 stand up? And we are going to have Mr. Frye</p> <p>6 administer the oath to you.</p> <p>7 (MAUREEN EMLET was duly sworn by the</p> <p>8 Clerk.)</p> <p>9 THE COURT: Okay. So, Ms. Emlet, I'll</p> <p>10 just ask for there to be some space between any</p> <p>11 lawyer's questions of you and your answers. And</p> <p>12 then space -- they can afford the same courtesy,</p> <p>13 space after your answer, before the question. That</p> <p>14 way, if there is an objection, I can rule on it</p> <p>15 before you answer your question.</p> <p>16 THE WITNESS: Okay.</p> <p>17 THE COURT: Okay. You may proceed.</p> <p>18 DIRECT EXAMINATION</p> <p>19 BY MR. McKEEBY:</p> <p>20 Q. Can you state your name for the record?</p> <p>21 A. Maureen Emlet.</p> <p>22 Q. Where do you reside, Ms. Emlet?</p> <p>23 A. Aurora, Colorado.</p> <p>24 Q. How are you currently employed?</p> <p>25 A. I'm retired from Southwest Airlines.</p>
<p style="text-align: right;">Page 1512</p> <p>1 Q. When did you retire?</p> <p>2 A. December 31st of 2019.</p> <p>3 Q. And when you worked for Southwest, where did</p> <p>4 you reside?</p> <p>5 A. In multiple locations; my last residence was in</p> <p>6 Dallas, Texas.</p> <p>7 Q. And how long a period of time did you work for</p> <p>8 Southwest Airlines?</p> <p>9 A. Twenty-one years.</p> <p>10 Q. What was your position with Southwest Airlines</p> <p>11 in -- I'm sorry, February of 2017?</p> <p>12 A. I was a manager of labor relations.</p> <p>13 Q. What did you do as a manager of labor</p> <p>14 relations?</p> <p>15 A. My focus was on working with in flight group or</p> <p>16 the flight attendant group. I was responsible for</p> <p>17 ensuring that the contract was being applied</p> <p>18 correctly with the flight attendants as well as</p> <p>19 different company policies. I would work very</p> <p>20 closely with base managers and base representatives</p> <p>21 in determining whether or not any violations had</p> <p>22 been -- been made or -- either on the flight</p> <p>23 attendant side or the company side.</p> <p>24 Q. Okay.</p> <p>25 You mentioned a couple of concepts there that I</p>	<p style="text-align: right;">Page 1513</p> <p>1 want you to explain a bit more to the jury.</p> <p>2 When you say "the contract was applied</p> <p>3 properly," what contract do you mean?</p> <p>4 A. The Collective Bargaining Agreement between TWU</p> <p>5 556 and Southwest Airlines.</p> <p>6 Q. And you indicated that you communicated or</p> <p>7 coordinated with the base managers? What is a base</p> <p>8 manager?</p> <p>9 A. Southwest Airlines has several different bases,</p> <p>10 or hubs, locations that flight attendants reside,</p> <p>11 and their trips originate in or out of that</p> <p>12 location.</p> <p>13 It is called a base. And the manager would be</p> <p>14 responsible for overseeing the group of flight</p> <p>15 attendants who were assigned to that base.</p> <p>16 Q. Thank you.</p> <p>17 I think you also indicated something about a --</p> <p>18 you said something about violations of policies.</p> <p>19 Can you expand on that just a little bit?</p> <p>20 A. Yes. In addition to the flight attendants</p> <p>21 being held to abide by the contract and the flight</p> <p>22 attendant work and conduct rules, there are also</p> <p>23 company policies that apply to all employees of</p> <p>24 Southwest Airlines.</p> <p>25 Q. Now, were there particular company policies</p>

<p style="text-align: right;">Page 1514</p> <p>1 over which you had responsibility or oversight?</p> <p>2 A. Yes. I had responsibility to make sure that</p> <p>3 they were being enforced properly, including the</p> <p>4 social media policy, the workplace bullying and</p> <p>5 hazing policy, the mission statement; multiple</p> <p>6 company policies.</p> <p>7 Q. Okay. We will get to some of these policies</p> <p>8 here directly.</p> <p>9 Are you familiar -- well, before we get to</p> <p>10 that, now, were you ever a flight attendant for</p> <p>11 Southwest?</p> <p>12 A. Yes, I was.</p> <p>13 Q. For how long a period of time?</p> <p>14 A. Ten months.</p> <p>15 Q. When was that?</p> <p>16 A. In 1998 to '99.</p> <p>17 Q. Okay. Were you a member of the union at that</p> <p>18 time?</p> <p>19 A. Yes, I was.</p> <p>20 Q. Was that the Local 556?</p> <p>21 A. Yes.</p> <p>22 Q. All right. Now I will transition.</p> <p>23 Are you familiar with the plaintiff in this</p> <p>24 case, Charlene Carter?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 1515</p> <p>1 Q. You recognize her?</p> <p>2 A. Yes.</p> <p>3 Q. How do you recognize her?</p> <p>4 A. I was involved at the arbitration for</p> <p>5 Ms. Carter's claims.</p> <p>6 Q. When you say you were involved, were you a</p> <p>7 witness?</p> <p>8 A. I was a witness, yes.</p> <p>9 Q. Were you cross-examined by her lawyer?</p> <p>10 A. Yes, I was.</p> <p>11 Q. Did you have some responsibility in connection</p> <p>12 with Ms. Carter's -- or the complaints against</p> <p>13 Ms. Carter?</p> <p>14 A. My responsibility began when I was first</p> <p>15 notified of alleged violations, and during the</p> <p>16 investigation process, prior to the determination</p> <p>17 for the discipline for her violations.</p> <p>18 Q. And do you recall how you first became aware of</p> <p>19 Ms. Carter's case?</p> <p>20 A. Yes.</p> <p>21 Q. Not the lawsuit, I'm talking about the</p> <p>22 complaint. How did you first become aware?</p> <p>23 A. I believe the first I knew of it was when our</p> <p>24 employee relations specialist sent copies of videos</p> <p>25 and screen shots that Ms. Carter had sent to</p>
<p style="text-align: right;">Page 1516</p> <p>1 Ms. Audrey Stone.</p> <p>2 Q. Did you know who Ms. Stone was?</p> <p>3 A. Yes.</p> <p>4 Q. And who was she?</p> <p>5 A. She, at the time, was the union president for</p> <p>6 Local 556.</p> <p>7 MR. McKEEBY: Can you pull up Exhibit 83?</p> <p>8 Move to admit Exhibit 83.</p> <p>9 THE COURT: Eighty-three. Any objections</p> <p>10 on 83?</p> <p>11 MR. HILL: No objections.</p> <p>12 THE COURT: Okay. 83 is admitted and you</p> <p>13 can publish.</p> <p>14 MR. McKEEBY: Okay. So publishing to the</p> <p>15 jury.</p> <p>16 (The referred-to document was admitted in</p> <p>17 Evidence as Trial Exhibit 83.)</p> <p>18 BY MR. McKEEBY:</p> <p>19 Q. Where are you on this email, if you can take</p> <p>20 a -- just a moment to -- I think I see you, but I</p> <p>21 will let you direct me.</p> <p>22 A. My name is at the very top, from Maureen Emlet.</p> <p>23 Q. Okay. Below it, do you see your name as well?</p> <p>24 It looks like you got a message from Ms. Gutierrez?</p> <p>25 A. Yes. Originally -- well, it is a whole email</p>	<p style="text-align: right;">Page 1517</p> <p>1 thread.</p> <p>2 Q. Right.</p> <p>3 A. But just below the first paragraph, you can see</p> <p>4 that Denise Gutierrez had sent the -- this email</p> <p>5 thread to me.</p> <p>6 Q. Right. And if you go to the next page, 83.2,</p> <p>7 this is the second page of the thread, correct?</p> <p>8 A. Yes.</p> <p>9 Q. And do you understand that to be Ms. Stone's</p> <p>10 complaint that was forwarded to you?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Tell the jury who Denise Gutierrez is.</p> <p>13 A. She was one of the employee relations</p> <p>14 investigators at the time.</p> <p>15 Q. And so you were in labor relations though,</p> <p>16 correct?</p> <p>17 A. Yes.</p> <p>18 Q. Explain to the jury what the difference at</p> <p>19 Southwest was between employee relations and labor</p> <p>20 relations.</p> <p>21 A. Labor relations dealt with the Collective</p> <p>22 Bargaining Agreement, that would be specific to that</p> <p>23 work group. So in my capacity, I worked mainly with</p> <p>24 flight attendants and ensuring that their contract</p> <p>25 was being upheld.</p>

<p style="text-align: right;">Page 1518</p> <p>1 Employee relations dealt with cases of</p> <p>2 discrimination and, I think, they had -- I think</p> <p>3 they oversaw the social media policy. I'm not sure</p> <p>4 exactly which policies.</p> <p>5 But they -- they would investigate to see</p> <p>6 whether or not there was any violation of a</p> <p>7 protected category. And then I worked with the</p> <p>8 bases to see if there was any -- any need or any</p> <p>9 substance to the allegation that would result in</p> <p>10 discipline.</p> <p>11 Q. So it doesn't look like Ms. Gutierrez said</p> <p>12 anything to you in her email, but do you recall that</p> <p>13 she forwarded you the videos? Or not?</p> <p>14 A. Yes. At first she called me, I believe that</p> <p>15 morning, and then she forwarded to me the videos as</p> <p>16 well as some screen shots and still shots.</p> <p>17 Q. And am I reading this correctly that you then</p> <p>18 forwarded those to Ms. Shaffer and Ms. Grant?</p> <p>19 A. That's correct.</p> <p>20 Q. Let's talk about each of those individuals.</p> <p>21 Who is Ms. Schaffer?</p> <p>22 A. Tammy Schaffer was my director of labor</p> <p>23 relations at the time. And Brianna Grant was the</p> <p>24 senior manager.</p> <p>25 Q. And were you sending the -- did you forward the</p>	<p style="text-align: right;">Page 1519</p> <p>1 videos to them as well as the chain?</p> <p>2 A. Yes, I did.</p> <p>3 Q. And why did you do that?</p> <p>4 A. There were a couple of reasons. One,</p> <p>5 Ms. Schaffer had asked that she be copied in and</p> <p>6 notified of any potential social media violations.</p> <p>7 Also, due to the seriousness of the content, I</p> <p>8 wanted to make sure that my bosses were aware of --</p> <p>9 of what was going on.</p> <p>10 Q. Okay. And I guess maybe I didn't understand</p> <p>11 your testimony.</p> <p>12 Were those the two people to whom you reported</p> <p>13 or -- is that why you call them your bosses?</p> <p>14 A. Yes. So Brianna Grant was my direct boss, and</p> <p>15 then Tammy Schaffer -- Brianna reported to Tammy.</p> <p>16 Q. And in your email, it looks like you have some</p> <p>17 discussion about the crux of Audrey -- Audrey</p> <p>18 participated in the Women's March in DC in January.</p> <p>19 Do you see that part of the email?</p> <p>20 A. Yes.</p> <p>21 Q. Where did that come from.</p> <p>22 You can take it down.</p> <p>23 A. That was from having conversation with</p> <p>24 Ms. Gutierrez, and also reviewing the contents of</p> <p>25 the emails -- I'm sorry, not emails -- but the</p>
<p style="text-align: right;">Page 1520</p> <p>1 Facebook posts that were sent to me.</p> <p>2 Q. And did you also -- did you also review</p> <p>3 Ms. Stone's complaint?</p> <p>4 A. I did.</p> <p>5 Q. Now, prior to being involved in the</p> <p>6 investigation, had you ever met Charlene Carter?</p> <p>7 A. No.</p> <p>8 Q. Had you had any experience with her?</p> <p>9 A. No.</p> <p>10 Q. Did you watch the videos?</p> <p>11 A. I did.</p> <p>12 Q. Where were you when you watched the videos?</p> <p>13 A. I was at my desk in the office.</p> <p>14 Q. And is that in Dallas?</p> <p>15 A. Yes, it is the Southwest headquarters here in</p> <p>16 Dallas.</p> <p>17 Q. Okay. What was -- what was your reaction when</p> <p>18 you watched the videos?</p> <p>19 A. I felt physically ill. I had -- I had never</p> <p>20 really received anything like that. I actually -- I</p> <p>21 had to get up from my desk and exit the building.</p> <p>22 And I walked around the building several times</p> <p>23 before I came back in.</p> <p>24 Q. How many laps did you do?</p> <p>25 A. I think I did two. It is a pretty big</p>	<p style="text-align: right;">Page 1521</p> <p>1 building.</p> <p>2 Q. Talking about the corporate headquarters?</p> <p>3 A. Yes.</p> <p>4 Q. Do you remember what you did when you returned</p> <p>5 to your desk?</p> <p>6 A. Yes. I reread the content that had been sent</p> <p>7 to me and then forwarded it to my direct leaders.</p> <p>8 Q. And that is what you did in the document that</p> <p>9 we just looked at?</p> <p>10 A. That's correct.</p> <p>11 Q. Those leaders being Ms. Schaffer and Ms. Grant?</p> <p>12 A. Yes.</p> <p>13 Q. Now, I think you have done this somewhat, did</p> <p>14 you have involvement in the investigation of the</p> <p>15 complaint?</p> <p>16 A. I did.</p> <p>17 Q. Can you describe generally for the jury what</p> <p>18 you did in connection with the investigation, kind</p> <p>19 of the steps that you took?</p> <p>20 A. Yes. Once I received the content from</p> <p>21 Ms. Gutierrez, I also went to Ms. Carter's Facebook</p> <p>22 page to verify that this content did, in fact come</p> <p>23 from that source.</p> <p>24 I worked with Mr. Ed Schneider, who was</p> <p>25 Ms. Carter's base manager at the time; and then, of</p>

<p style="text-align: right;">Page 1522</p> <p>1 course, reviewed all of the documents and 2 investigations that he completed and sent to me for 3 review. 4 Q. And what type of documents and investigations 5 did Mr. Schneider send to you? 6 A. He sent me the fact-finding notes from 7 Ms. Carter's fact-finding meeting, he sent me the 8 notes from an interview that he had conducted with 9 Ms. Audrey Stone regarding these allegations, and he 10 sent me a synopsis of his investigation as well as 11 his recommendation of how he thought -- what he 12 thought the appropriate discipline would be. 13 Q. And what was that recommendation? 14 A. Termination. 15 THE COURT: Hold on. There was a hearsay 16 objection. 17 MR. HILL: Yes. 18 THE COURT: I will overrule that. 19 BY MR. McKEEBY: 20 Q. It means you can answer. 21 A. He recommended termination of employment for 22 Ms. Carter. 23 Q. We will get back to that. 24 Did you review Ms. Carter's flight records in 25 connection with your investigation?</p>	<p style="text-align: right;">Page 1523</p> <p>1 A. Yes, I did. 2 Q. Why did you do that? 3 A. Because that was standard practice in any 4 investigation, would be to review the -- the file, 5 the employee file, of the flight attendant for the 6 previous 18 months of active duty, as well as their 7 attendance records. 8 Q. And what did your -- what did your review of 9 those attendance records reveal with respect to 10 Ms. Carter? 11 A. I found that Ms. Carter had not worked much 12 during the previous three years. 13 Q. Was that significant at all or not? 14 A. Well, it is not unheard of for flight 15 attendants to retain their employment, but give away 16 their trips. But I thought it was significant that 17 Ms. Carter said that she loved her job, wanted to 18 keep her job, but it appeared that she really didn't 19 work very often. 20 MR. McKEEBY: Let's pull Exhibit 44. And 21 Southwest would move to admit Exhibit 44. 22 MR. HILL: No objection. 23 MR. GREENFIELD: No objection. 24 THE COURT: Okay. Forty-four is in. You 25 can publish.</p>
<p style="text-align: right;">Page 1524</p> <p>1 (The referred-to document was admitted in 2 Evidence as Trial Exhibit 44.) 3 BY MR. McKEEBY: 4 Q. So are these the -- I know this is one page -- 5 but are these the flight records that you 6 referenced? 7 A. Yes. 8 Q. So I will tell you that this exhibit has, well, 9 several pages. But I would like you to kind of walk 10 through the jury so that they can understand the 11 documents -- or the document and what it means. Is 12 this for, like, a particular month? 13 A. Yes. So if you look at the top left of the 14 document, you can see that the employee is Charlene 15 Carter, with her employee number, and she was based 16 in Denver. 17 And then just underneath that, in blue, it says 18 January 17, that is January of 2017. 19 If you continue across from where it says 20 "January 17th," you will see the original credit was 21 supposed to be 92.4 trips. That is approximately 22 92 hours of flying time. 23 The projected was 0. And that is because, if 24 you look at the actual calendar page itself, you 25 will see that there is nothing on any of those</p>	<p style="text-align: right;">Page 1525</p> <p>1 dates. That shows that Ms. Carter did not fly any 2 trips during the month of January in 2017. 3 Q. Okay. Why don't we go to the next page, 44.2. 4 And what I will do is walk through 2016, and if the 5 jury is interested, I will let them go through the 6 remainder of the document. 7 What does it say -- for what is this document, 8 44.2? 9 A. This is February of 2017. Her original trips 10 that she was assigned were -- had a credit of 84.8 11 trips. However, she did not fly anything during the 12 month of February of 2017. 13 Q. And I misspoke. I thought this was 2016. 14 Let's go to the next page, which I think is, if I 15 understand how you are describing these documents, 16 44-point -- it is actually 44.4, I think, if I'm 17 understanding how you are reading the documents, is 18 where we start with 2016, is that correct? 19 A. Yes, that's correct. 20 So now you can see in the blue, it says 21 January 16th, that is January of 2016. 22 Q. And what did she do during January of 2016? 23 A. She did not fly any trips during that month. 24 Q. What does the "VA" stand for? 25 A. Vacation. She had one week of vacation at the</p>

<p style="text-align: right;">Page 1526</p> <p>1 end of December of 2015, and then January of 2016 2 begins. 3 Q. Okay. And then the next page, 44.5, is that 4 February of 2016? 5 A. Yes, it is. 6 Q. Did she take any trips during that month? 7 A. No. 8 Q. Is there another -- is that, the VA, the same 9 for vacation? 10 A. Yes. And so up at the top where it says 11 "Projected 26.25," that means she received pay for 12 the vacation days during that month. 13 Q. I see. 14 MR. HILL: Objection, on the basis of 15 optional completeness, as Mr. McKeeby skipped past 16 what is labeled as -- 17 THE COURT: Hold on. That is a speaking 18 objection. We can come to sidebar if you want. 19 MR. HILL: No, thank you. 20 THE COURT: I will overrule, you can 21 continue. 22 BY MR. McKEEBY: 23 Q. The next page, I think is 44.6. Is this for 24 March of 2016? 25 A. Yes, it is.</p>	<p style="text-align: right;">Page 1527</p> <p>1 Q. And how many trips did Ms. Carter take during 2 that month? 3 A. She flew one day. If you see at the very 4 bottom of the calendar page, March 27 has those 5 initials on it. That would be the identifier of the 6 trip that she flew. And she received 7.10 trips for 7 pay. 8 Q. What are the letters next to that trip? Are 9 those airport designations or something else? 10 A. No. It just -- it denotes the name of the 11 line. And also, if you look at the -- where it 12 says/FAC, she was the flight attendant in the C 13 position, which is the designation of what her 14 duties were on the aircraft. 15 Q. I see. 16 Okay. The next page, 44.7, appears to be April 17 of 2016. It looks like there is more activity here. 18 How many trips did she take during April of 19 2016? 20 A. Well, the trip that is on the top left, that 21 actually happened in March. Then beginning 22 April 8th, she had vacation. On April 19th and 23 on -- no, just on April 19th. She flew a one-day 24 trip, which means she went out somewhere and came 25 back the same day.</p>
<p style="text-align: right;">Page 1528</p> <p>1 And then it looks like on April 25th, she had a 2 one-day trip, but called in sick for it. SLP, 3 stands for sick leave with pay. 4 Q. I'm sorry, with pay? 5 A. Yes. 6 Q. And on 44.8, I think we are now into May. What 7 does this show in terms of her activity during the 8 month of May of 2016? 9 A. On May 23rd, she called in sick, and it says, 10 SLT. That means she called in sick for training. 11 And then she had -- it looks like she left on 12 May 26th and returned home on May 27 for a two-day 13 trip. And the MSY that is in that rectangle 14 underneath designates that she overnighted in 15 New Orleans. 16 Q. And MSY is the airport designation for 17 New Orleans? 18 A. New Orleans, yes. 19 Q. The next page is 44.9. We are up to June. 20 What did she do in June for Southwest? 21 A. From June 8th through 14th, she had another 22 week of vacation. And then the RTC, she took one 23 day of recurrent training in Colorado. All flight 24 attendants are required to do a certain number of 25 hours of recurrent training every year.</p>	<p style="text-align: right;">Page 1529</p> <p>1 Q. By the way, how is it that she's getting so 2 much vacation, if she's not working? 3 A. Because of her seniority, her vacation would 4 continue to accrue whether she worked or not. 5 Q. Okay. 6 Exhibit 44.10. What does this show? 7 A. That is July of 2016. And she was pulled from 8 a trip on July 9th, 10th and 11th for jury duty. 9 Q. Okay. So did she fly at all during that month? 10 A. No, she did not. 11 Q. What about the next page, 44.11, which looks 12 like August of 2016, did she fly during that month? 13 A. No. She had a week of vacation time, but no 14 flying. 15 Q. And the next page is 44.12. What about this 16 month? What do those entries indicate? 17 A. She did not fly any trips during the month of 18 September. On September 1st, there is a designation 19 JS2. That means she job shared with another flight 20 attendant. So the Collective Bargaining Agreement 21 gives flight attendants the ability to bid for one 22 month's block of flying time, but split it with 23 another person. 24 So one of them would be responsible for the 25 first half of the month of trips and the other one</p>

<p style="text-align: right;">Page 1530</p> <p>1 for the second half of the month of trips. 2 Q. So do these entries indicate actual flying time 3 by Ms. Carter? 4 A. There is no flying time in the month of 5 September. 6 Q. What about October, on page 44.13? Is there 7 any flying time for Ms. Carter during that month? 8 A. No. 9 Q. Is there vacation time? 10 A. Yes, there is one week of vacation, but no 11 actual flying. 12 Q. And 44.4 -- I'm sorry -- 14, takes us into 13 November. Is there any activity on -- in that 14 month? 15 A. There is no flying and no vacation in November 16 of '16. 17 Q. And what about in December on 44.15? 18 A. There is no flying in December. 19 MR. McKEEBY: Okay. You can take that 20 down. 21 BY MR. McKEEBY: 22 Q. I think earlier you indicated that one of the 23 things that you did in connection with your role in 24 the investigation was to review Ms. Carter's 25 Facebook page? Did I understand that correctly?</p>	<p style="text-align: right;">Page 1531</p> <p>1 A. Yes. 2 Q. What was your purpose in doing so? 3 A. One, I wanted to see -- to verify that the 4 screen shots and videos that had been sent to me 5 actually came from Ms. Carter's Facebook page. 6 Also, to see if she had identified herself as a 7 flight attendant on her Facebook page, a Southwest 8 Airlines flight attendant. 9 Q. And why was that important? 10 A. Because that would create a nexus to the 11 workplace. 12 Q. Let me direct your attention to Exhibit 90, 90, 13 which I think is already in evidence. 14 MR. McKEEBY: Is that correct, your Honor? 15 THE COURT: That's correct. 16 BY MR. McKEEBY: 17 Q. Exhibit 90 has already been published to the 18 jury. What is this document? 19 A. This is a document that originated from Denise 20 Gutierrez, and then I forwarded it to my leaders, 21 Tammy Schaffer and Brianna Grant. 22 I sent them the -- the videos and posts that 23 Ms. Gutierrez had sent to me. 24 In addition, I attached some posts that I 25 had -- some screen shots that I had taken from</p>
<p style="text-align: right;">Page 1532</p> <p>1 Facebook that showed the connection between that 2 Ms. Carter's Facebook page and her being identified 3 as a Southwest Airlines flight attendant. 4 Q. And where did you do that? Is that something 5 that you did -- are those the attachments? 6 A. Yes. 7 Q. I'm sorry. What are those -- what did you 8 understand those attachments to be? 9 A. Off the top of my head, there were photos of 10 Ms. Carter in her Southwest Airlines uniform, there 11 were -- there was a photo of her, I believe she was 12 in street clothes, with her Southwest Airlines ID 13 around her neck. And I think there were multiple 14 photos of her in the uniform and on the Southwest 15 Airlines's aircraft. 16 Q. And is that what you mean by the phrase "nexus" 17 in this email -- and I think you mentioned it in 18 your testimony today? 19 A. Yes. 20 Q. And why was that important to Southwest? 21 A. Because part of the social media policy also 22 specifies that the -- and it is in the mission 23 statement, I believe -- that the public image that a 24 flight attendant projects can enhance or harm the 25 public image of Southwest Airlines.</p>	<p style="text-align: right;">Page 1533</p> <p>1 Q. How would it enhance or harm the public image 2 of Southwest Airlines? 3 A. Well, specific to Ms. Carter, she had the 4 abortion videos on her Facebook page. So that could 5 be very offensive to any customers who were viewing 6 those posts. 7 Q. I would like to spend a little bit of time 8 talking about some of the policies that you 9 referenced. 10 MR. McKEEBY: Can we go to Exhibit No. 11? 11 BY MR. McKEEBY: 12 Q. Do you recognize this document? 13 A. Yes. 14 MR. McKEEBY: I would like to move -- or 15 Southwest would move for the admission of 16 Exhibit 11. 17 MR. HILL: Objection, relevance. 18 THE COURT: All right. I'm looking. All 19 right. Anything from the union? 20 MR. GREENFIELD: No objection. 21 THE COURT: I will overrule that, and 22 admit 11. You can publish. 23 (The referred-to document was admitted in 24 Evidence as Trial Exhibit 11.) 25</p>

<p style="text-align: right;">Page 1534</p> <p>1 BY MR. McKEEBY:</p> <p>2 Q. Can you explain to the jury what this document</p> <p>3 is?</p> <p>4 A. Yes, this is a page from the flight attendant</p> <p>5 manual. And it is a copy of the Southwest Airlines</p> <p>6 mission statement.</p> <p>7 Q. And can you generally describe the mission</p> <p>8 statement?</p> <p>9 A. Yes. The beginning of the mission statement</p> <p>10 discusses that we are dedicated to the highest</p> <p>11 quality of customer service. The second paragraph</p> <p>12 is specific to external customers. It talk -- well,</p> <p>13 actually, the second paragraph, it states here, that</p> <p>14 it is displayed in many different places.</p> <p>15 And I think that the part that was specifically</p> <p>16 pertinent to Ms. Carter's case is the last paragraph</p> <p>17 here that says, we are committed to provide our</p> <p>18 employees a stable work environment. And then, when</p> <p>19 you go down to the last line, it states, above all,</p> <p>20 employees will be provided the same concern, respect</p> <p>21 and caring attitude within the organization that</p> <p>22 they are expected to share externally with every</p> <p>23 Southwest customer.</p> <p>24 Q. And why was that particularly pertinent to</p> <p>25 Ms. Carter's situation?</p>	<p style="text-align: right;">Page 1535</p> <p>1 A. Because the allegations that were brought</p> <p>2 against her were of one employee reporting that she</p> <p>3 had not been treated with respect or care, that she</p> <p>4 had been attacked verbally.</p> <p>5 Q. Now, my understanding, and I think you</p> <p>6 mentioned, is that Ms. Stone was the president of</p> <p>7 the Union at the time. Is that correct?</p> <p>8 A. Yes.</p> <p>9 Q. Did that matter to you in connection with your</p> <p>10 role in the investigation?</p> <p>11 A. No. It did not. Ms. Carter --</p> <p>12 Q. Why not? Why not?</p> <p>13 A. Ms. Carter was first and foremost an employee</p> <p>14 of Southwest Airlines.</p> <p>15 Q. Did you Ms. Stone?</p> <p>16 A. I'm sorry, Ms. Stone.</p> <p>17 As well as Ms. Carter. But Ms. Stone was first</p> <p>18 and foremost an employee of Southwest Airlines. And</p> <p>19 it says right there, we are committed to provide our</p> <p>20 employees, not just one or two, but all of them.</p> <p>21 Q. And how do employees at Southwest Airlines have</p> <p>22 access to this mission statement?</p> <p>23 A. The mission statement is posted in multiple</p> <p>24 places. It is posted in, of course, all of our</p> <p>25 headquarters, at the different locations where --</p>
<p style="text-align: right;">Page 1536</p> <p>1 where we fly, in the flight attendant lounges. And</p> <p>2 also it is -- this specific copy of the document is</p> <p>3 found in the flight attendant annual, and each</p> <p>4 flight attendant is required to carry that manual</p> <p>5 with them.</p> <p>6 Q. Okay. Carry it with them on the flights?</p> <p>7 A. Yes.</p> <p>8 Q. Let's go to trial Exhibit 7.</p> <p>9 What is --</p> <p>10 MR. McKEEBY: Well, first of all,</p> <p>11 Southwest moves to admit Trial Exhibit 7.</p> <p>12 MR. HILL: No objection.</p> <p>13 THE COURT: No objection to 7.</p> <p>14 MR. HILL: No objection.</p> <p>15 MR. GREENFIELD: No objection.</p> <p>16 THE COURT: Seven is in.</p> <p>17 You can publish.</p> <p>18 (The referred-to document was admitted in</p> <p>19 Evidence as Trial Exhibit 7.)</p> <p>20 BY MR. McKEEBY:</p> <p>21 Q. What is this? Explain to the jury what this</p> <p>22 document is.</p> <p>23 A. This is Southwest Airlines' policy concerning</p> <p>24 harassment, sexual harassment, discrimination and</p> <p>25 retaliation.</p>	<p style="text-align: right;">Page 1537</p> <p>1 And basically, it outlines what is and is not</p> <p>2 acceptable, as well as giving some examples of</p> <p>3 unacceptable behavior concerning harassment, sexual</p> <p>4 harassment, discrimination and retaliation.</p> <p>5 Q. Was this policy implicated in your</p> <p>6 investigation of Ms. Carter's situation?</p> <p>7 A. Yes, it was.</p> <p>8 Q. How so?</p> <p>9 A. There were -- were multiple ways. There were</p> <p>10 certain screen shots that were sent that were of a</p> <p>11 sexually offensive nature. There were also what</p> <p>12 Ms. Stone perceived to be as threats that Ms. Carter</p> <p>13 sent to her. And the content of the videos was</p> <p>14 harassing and intimidating.</p> <p>15 Q. The first thing that you mentioned were the --</p> <p>16 was that the vagina hats?</p> <p>17 A. Yes.</p> <p>18 MR. McKEEBY: Can you pull up Exhibit 47?</p> <p>19 BY MR. McKEEBY:</p> <p>20 Q. Is this what you were talking about?</p> <p>21 A. Yes, it was.</p> <p>22 Q. And why was that potentially implicating the</p> <p>23 policy that we just spoke about?</p> <p>24 A. Well, it is sexually harassing, it is sexually</p> <p>25 explicit. Even though they are hats, they are</p>

<p style="text-align: right;">Page 1538</p> <p>1 intended to look like a woman's vagina.</p> <p>2 Q. And how do employees at Southwest have access</p> <p>3 to the -- trial Exhibit 7, the harassment, sexual</p> <p>4 harassment and discrimination policy?</p> <p>5 MR. McKEEBY: You can pull that down.</p> <p>6 THE WITNESS: All employees have access to</p> <p>7 it on SWA life, which is our intranet, and then</p> <p>8 flight attendants also have a copy of the policy in</p> <p>9 their manual.</p> <p>10 BY MR. McKEEBY:</p> <p>11 Q. What is the concept of cyberbullying?</p> <p>12 A. The concept of cyberbullying would be bullying</p> <p>13 of one employee to another by the use of social</p> <p>14 media.</p> <p>15 Q. Did you believe that concept was implicated in</p> <p>16 connection with Ms. Stone's complaint about</p> <p>17 Ms. Carter?</p> <p>18 A. Yes, I did.</p> <p>19 Q. How so?</p> <p>20 A. Because the complaints that -- or the videos</p> <p>21 and text messages and other documents that</p> <p>22 Ms. Carter sent to Ms. Stone were done via, I</p> <p>23 believe, Facebook instant messaging.</p> <p>24 MR. McKEEBY: And at this time, we would</p> <p>25 like to pull but not publish Exhibit 147.</p>	<p style="text-align: right;">Page 1539</p> <p>1 MR. HILL: Objection. Same objection we</p> <p>2 already stated.</p> <p>3 THE COURT: Understood. Are you wanting</p> <p>4 to show the witness or admit it into evidence?</p> <p>5 MR. McKEEBY: I would like to just show it</p> <p>6 to the witness.</p> <p>7 THE COURT: Okay. You can show it to the</p> <p>8 witness.</p> <p>9 BY MR. McKEEBY:</p> <p>10 Q. What is this document?</p> <p>11 MR. HILL: Objection, testifying from a</p> <p>12 document.</p> <p>13 THE COURT: Sidebar.</p> <p>14 (Thereupon, the following proceedings were</p> <p>15 had at sidebar:)</p> <p>16 THE COURT: All right.</p> <p>17 MR. HILL: He's seeking to get the</p> <p>18 document in through testimony instead of through the</p> <p>19 document itself. We have already got the bullying</p> <p>20 policy that was in place at the time that Southwest</p> <p>21 submitted. That is the bullying policy they have go</p> <p>22 to work from. He can't sideline this by getting</p> <p>23 this other policy in through testimony.</p> <p>24 MR. McKEEBY: I'm not going to have her</p> <p>25 testify as to the contents. I'm just going to have</p>
<p style="text-align: right;">Page 1540</p> <p>1 her describe the document, and I'm going to go to</p> <p>2 the other document.</p> <p>3 THE COURT: All right. I think that is</p> <p>4 fine.</p> <p>5 (Thereupon, the sidebar was concluded and</p> <p>6 the following proceedings were held in open</p> <p>7 court:)</p> <p>8 THE COURT: Okay. You can proceed.</p> <p>9 BY MR. McKEEBY:</p> <p>10 Q. Can you describe this document?</p> <p>11 A. Yes. This is a portion of a policy. At the</p> <p>12 very top of that page, it states, guidelines for</p> <p>13 employees, the policy and procedure handbook.</p> <p>14 This is the handbook that is published on SWA</p> <p>15 Life, our intranet, that all employees have access</p> <p>16 to. And it -- it has a copy of the workplace</p> <p>17 bullying and hazing policy.</p> <p>18 Q. And can you tell when this policy was</p> <p>19 implemented -- or when this version of the policy</p> <p>20 was put in place?</p> <p>21 A. Yes. So --</p> <p>22 MR. HILL: Objection, same objection.</p> <p>23 THE COURT: I will sustain this one.</p> <p>24 MR. McKEEBY: Let's pull Exhibit 13,</p> <p>25 please.</p>	<p style="text-align: right;">Page 1541</p> <p>1 THE COURT: It is in. We can publish.</p> <p>2 BY MR. McKEEBY:</p> <p>3 Q. What is this document?</p> <p>4 A. This is an older version of the workplace</p> <p>5 bullying and hazing policy.</p> <p>6 Q. How do you know it is an older vision?</p> <p>7 A. Because the revised date is older than the last</p> <p>8 document that we just saw.</p> <p>9 Q. And apart from the language of the policy, can</p> <p>10 you just generally describe to the jury what</p> <p>11 Southwest's policy is with respect to bullying and</p> <p>12 hazing?</p> <p>13 A. Yes. It will not be tolerated in the</p> <p>14 workplace.</p> <p>15 Q. How do employees have access to this policy?</p> <p>16 A. It is available on SWA Life.</p> <p>17 Q. Again, remind me what S W A life is?</p> <p>18 A. The internal -- it is the intranet. So our</p> <p>19 internal internet.</p> <p>20 Q. Who has access to that?</p> <p>21 A. Every employee has access to it.</p> <p>22 Q. You weren't here, but there was some testimony</p> <p>23 about the fact that this is a workplace bullying and</p> <p>24 hazing policy.</p> <p>25 Do you see that?</p>

<p style="text-align: right;">Page 1542</p> <p>1 A. Yes.</p> <p>2 Q. What does "workplace" mean in that context?</p> <p>3 A. Anything that is associated with work, or the</p> <p>4 employees of Southwest Airlines.</p> <p>5 Q. Well, what if an employee sends a threatening</p> <p>6 message to another employee while they are at home,</p> <p>7 not on a plane or not working, but to a co-employee</p> <p>8 while they are home, does that implicate this policy</p> <p>9 in your view?</p> <p>10 A. Absolutely. In fact, especially in the case of</p> <p>11 flight attendants, they are a very different</p> <p>12 workforce. They don't have an office. Their office</p> <p>13 is on the plane or at the hotel. Many times they</p> <p>14 are conducting work-like bidding for their trips</p> <p>15 from home. And the way that many flight attendants</p> <p>16 choose to say connected is through social media.</p> <p>17 When it is one -- one employee to another, they</p> <p>18 are still coworkers, whether they are physically on</p> <p>19 the aircraft or not.</p> <p>20 Q. And in your investigation of Ms. Carter's case,</p> <p>21 did you come to any conclusion as to whether or not</p> <p>22 Ms. Carter violated Southwest's bullying and hazing</p> <p>23 policy?</p> <p>24 A. Yes. I agreed with Mr. Schneider that this</p> <p>25 policy had been violated.</p>	<p style="text-align: right;">Page 1543</p> <p>1 MR. McKEEBY: Let's go to Exhibit No. 9,</p> <p>2 which I don't think has been published. But</p> <p>3 Southwest would move to admit trial Exhibit No. 9.</p> <p>4 THE COURT: All right. Any objection to</p> <p>5 No. 9?</p> <p>6 MR. HILL: No objection.</p> <p>7 MR. GREENFIELD: No objection, your Honor.</p> <p>8 THE COURT: Nine is in.</p> <p>9 You can publish.</p> <p>10 (The referred-to document was admitted in</p> <p>11 Evidence as Trial Exhibit 9.)</p> <p>12 BY MR. McKEEBY:</p> <p>13 Q. Can you explain to the jury what this document</p> <p>14 is?</p> <p>15 A. Yes, this is are the Southwest Airlines</p> <p>16 employee social media policy.</p> <p>17 It outlines some -- well, first of all, it</p> <p>18 gives the expectations of our employees. And you</p> <p>19 can see in the second paragraph, the italicized area</p> <p>20 talks about the content that is in any way later</p> <p>21 related to Southwest, reflects poorly upon Southwest</p> <p>22 or impacts the workplace is a violation of the</p> <p>23 policy, and may result in discipline up to and</p> <p>24 including termination.</p> <p>25 The document goes on to give some examples of</p>
<p style="text-align: right;">Page 1544</p> <p>1 what is prohibited, and then some examples of social</p> <p>2 media content that is acceptable.</p> <p>3 Q. Okay. What would be -- what are the</p> <p>4 consequences of violating this policy by an</p> <p>5 employee?</p> <p>6 A. That it could result in discipline up to and</p> <p>7 including termination.</p> <p>8 Q. And I didn't ask you that question in</p> <p>9 connection with the previous document, the workplace</p> <p>10 bullying and hazing policy. What were the potential</p> <p>11 consequences of violating that policy?</p> <p>12 A. Potential discipline up to and including</p> <p>13 termination.</p> <p>14 Q. Now, does Southwest monitor, independent of any</p> <p>15 complaint -- you indicated that you reviewed</p> <p>16 Ms. Carter's Facebook posts, but does Southwest</p> <p>17 monitor employee Facebook accounts? Pages, I guess?</p> <p>18 A. No. Not without some complaint being brought</p> <p>19 against an individual.</p> <p>20 Q. In the section towards the bottom that says,</p> <p>21 monitoring and reporting prohibited conduct, there</p> <p>22 is language in the second sentence about what</p> <p>23 employees should do when they become aware of social</p> <p>24 media content of a certain nature.</p> <p>25 What should employees do?</p>	<p style="text-align: right;">Page 1545</p> <p>1 A. It states that they should promptly and</p> <p>2 accurately report such content to Southwest's social</p> <p>3 media team.</p> <p>4 Q. And does Southwest have the expectation that</p> <p>5 employees will do that?</p> <p>6 A. Yes.</p> <p>7 Q. And I forgot to ask you, how was this policy</p> <p>8 made available to Southwest's employees?</p> <p>9 A. It is available on SWA Life, the intranet.</p> <p>10 Q. And did you come to an assessment as to whether</p> <p>11 or not Ms. Carter's conduct violated this policy?</p> <p>12 A. Yes. I agreed that her conduct did violate the</p> <p>13 social media policy.</p> <p>14 Q. What are read before fly memorandums?</p> <p>15 A. Those are memos that are published with content</p> <p>16 that is specific to the flight attendant workforce.</p> <p>17 They are required to read all new read before flies</p> <p>18 or RBFs, is the abbreviation for them, prior to</p> <p>19 flying any trips.</p> <p>20 BY MR. McKEEBY:</p> <p>21 Q. And has Southwest published those read before</p> <p>22 fly memorandums regarding its social media policy?</p> <p>23 A. Yes, they have.</p> <p>24 Q. If you will go to Exhibit 16.</p> <p>25 Is that one of those read before fly</p>

<p style="text-align: right;">Page 1546</p> <p>1 memorandums?</p> <p>2 A. Yes.</p> <p>3 MR. McKEEBY: Southwest moves to admit</p> <p>4 Trial Exhibit 16.</p> <p>5 THE COURT: No objection.</p> <p>6 MR. GREENFIELD: No objection.</p> <p>7 THE COURT: Sixteen is in.</p> <p>8 You can publish.</p> <p>9 (The referred-to document was admitted in</p> <p>10 Evidence as Trial Exhibit 16.)</p> <p>11 BY MR. McKEEBY:</p> <p>12 Q. So what does this say about Southwest's social</p> <p>13 media policy? It looks like an older document,</p> <p>14 January of 2013.</p> <p>15 A. It is an older document. As you said,</p> <p>16 January 11th of 2013, and it states that the social</p> <p>17 media policy was introduced and is applicable to all</p> <p>18 Southwest employees, including members of the Board</p> <p>19 of Directors and contractors.</p> <p>20 It tells employees to familiarize themselves</p> <p>21 with the policy, and puts them on notice that</p> <p>22 mandatory acceptance of the policy would be required</p> <p>23 beginning the 16th of January, in 2013.</p> <p>24 Finally, it gives the -- well, actually, these</p> <p>25 are specific to flight attendants, so it gives the</p>	<p style="text-align: right;">Page 1547</p> <p>1 flight attendants the pathway to follow in order to</p> <p>2 be able to find the entire social media policy.</p> <p>3 Q. And so maybe you said this and I missed it, but</p> <p>4 to whom are these types of memorandums issued to?</p> <p>5 A. Read before flies are specific to the flight</p> <p>6 attendant work group.</p> <p>7 Q. Okay.</p> <p>8 And how are they distributed?</p> <p>9 A. I believe at the time that this one was</p> <p>10 distributed, they were still paper copies. And the</p> <p>11 books of memos were kept in each flight attendant</p> <p>12 lounge. And then eventually we went electronic, and</p> <p>13 they were all delivered electronically.</p> <p>14 MR. McKEEBY: Thank you. You can take</p> <p>15 that down now.</p> <p>16 BY MR. McKEEBY</p> <p>17 Q. Did you make the decision to terminate</p> <p>18 Ms. Carter's employment at Southwest?</p> <p>19 A. No, I did not.</p> <p>20 Q. Did you -- do you have a sense of who did?</p> <p>21 A. Yes.</p> <p>22 Q. And who was that?</p> <p>23 A. Mr. Ed Schneider.</p> <p>24 Q. And did you consult with him in connection with</p> <p>25 your perspective on that decision?</p>
<p style="text-align: right;">Page 1548</p> <p>1 A. Yes, I did.</p> <p>2 Q. Can you explain to the jury what that involved?</p> <p>3 A. Yes. As I stated earlier, Mr. Schneider sent</p> <p>4 me all of the information that he had gathered</p> <p>5 during his investigation, as well as all of the</p> <p>6 documents he reviewed, the different department</p> <p>7 representatives that he had consulted with and his</p> <p>8 recommendation for termination of employment.</p> <p>9 Q. And did you agree with that recommendation?</p> <p>10 A. Yes.</p> <p>11 Q. Why?</p> <p>12 A. Because I believed that Ms. Carter's behavior</p> <p>13 had violated multiple company policies. I reviewed</p> <p>14 our case history of other cases that had similar</p> <p>15 violations, and I determined that what his</p> <p>16 recommendation was, was in line with what we had and</p> <p>17 consistent with what -- what discipline had been</p> <p>18 issued in other similar cases.</p> <p>19 Q. Ms. Emlet, are you a religious person?</p> <p>20 A. I am.</p> <p>21 Q. What are your personal views regarding</p> <p>22 abortion?</p> <p>23 MR. HILL: Objection, relevance.</p> <p>24 THE COURT: I will sustain that.</p> <p>25 MR. McKEEBY: Your Honor, sidebar.</p>	<p style="text-align: right;">Page 1549</p> <p>1 (Thereupon, the following proceedings were</p> <p>2 had at sidebar:)</p> <p>3 THE COURT: She wasn't the terminator.</p> <p>4 MR. McKEEBY: She consulted. She</p> <p>5 consulted and had input with Mr. Schneider, so I</p> <p>6 think her views are relevant. And that is part of</p> <p>7 the motion in limine ruling that you issued about</p> <p>8 perspectives of others that were involved in the</p> <p>9 process, so I should be able to ask her that.</p> <p>10 THE COURT: Response.</p> <p>11 MR. HILL: In addition to being in</p> <p>12 admissible, it is irrelevant because her religious</p> <p>13 views aren't impactful on whether she made this --</p> <p>14 whether she recommended this decision or approved</p> <p>15 this decision.</p> <p>16 It is also a 404 issue, character. They</p> <p>17 are trying to say that she wouldn't have issued --</p> <p>18 she wouldn't have done what she did, if not for her</p> <p>19 character. She wouldn't have done something in</p> <p>20 conformance with her character, by establishing</p> <p>21 these character questions of her religion and her</p> <p>22 assistance on abortion.</p> <p>23 THE COURT: Response to 404.</p> <p>24 MR. McKEEBY: I just don't think that is</p> <p>25 why it is being used at all. I mean, it is set</p>

<p style="text-align: right;">Page 1550</p> <p>1 forth in our motion in limine. And I think her 2 perspective and beliefs are relevant to the ultimate 3 decision because she had some role in communicating 4 and consulting with Mr. Schneider. 5 THE COURT: Yeah, I think it is relevant, 6 but only because she had a consulting role. 7 MR. McKEEBY: I'm not going to ask every 8 witness -- 9 THE COURT: Yeah, I think it's off limits. 10 So I get your objection. I will overrule it for 11 this witness. 12 (Thereupon, the sidebar was concluded and 13 the following proceedings were held in open 14 court:) 15 THE COURT: Okay. You can reask that 16 question. 17 BY MR. McKEEBY: 18 Q. Ms. Emlet what are your personal views 19 regarding abortion? 20 A. I believe that abortion is wrong and I am pro 21 life. 22 Q. What is the U.S. Conference of Catholic 23 Bishops? 24 A. It is a collection of Catholic bishops that -- 25 they confer on different issues that are pertinent</p>	<p style="text-align: right;">Page 1551</p> <p>1 to the Catholic church. 2 I happen to have a connection with them because 3 they send emails, monthly emails. I belong to a -- 4 a universal prayer group that prays about pro life 5 issues. 6 Q. What -- Ms. Carter, in this case, has said that 7 she sent those videos as an expression of her -- the 8 videos to Ms. Stone as an expression of her 9 religious beliefs. 10 Do you have a reaction to that? 11 MR. HILL: Objection, relevance. 12 THE COURT: I will allow that. 13 THE WITNESS: I can understand how those 14 videos might reflect what Ms. Carter believes about 15 abortion, but I don't know how they connect to her 16 religious beliefs or why that would be something 17 that she would share with Ms. Stone. 18 MR. McKEEBY: Pass the witness, your 19 Honor. 20 THE COURT: All right. Mr. Greenfield. 21 CROSS-EXAMINATION 22 BY MR. GREENFIELD: 23 Q. Good afternoon, Ms. Emlet. 24 A. Good afternoon. 25 Q. My name is Adam Greenfield, and I'm one of the</p>
<p style="text-align: right;">Page 1552</p> <p>1 attorneys who represents the union in this matter. 2 I have a few questions for you. 3 Do employees lose their rights at Southwest 4 Airlines when they become union members? 5 A. No. As a matter of fact, being a union member 6 generally gives them additional protection over 7 their personal work rights. 8 Q. Did Audrey Stone lose her rights at Southwest 9 Airlines to be free from harassment when she became 10 the union president? 11 A. Absolutely not. 12 Q. Can you tell the jury a little bit about, in 13 your role, your duty to investigate, if any, 14 complaints? 15 MR. HILL: Objection, calls for a legal 16 conclusion. 17 THE COURT: Overruled. You can answer. 18 THE WITNESS: Prior to becoming a labor 19 relations manager, I was a base manager for many 20 years. And in that role, I -- I would be involved 21 in investigating cases when allegations were brought 22 against flight attendants. 23 As a labor relations manager, my role was 24 to work with the base leaders and ensure that -- 25 that we were applying the contract consistently, the</p>	<p style="text-align: right;">Page 1553</p> <p>1 way that the contract was intended to be applied. 2 And also, that company policies were being followed. 3 BY MR. GREENFIELD: 4 Q. Do you understand there to be any ramifications 5 if you failed to investigate a complaint? 6 A. Certainly. First of all, it would -- it would 7 create disparate treatment. There could be legal 8 implications if a complaint was brought forward and 9 we did not investigate. 10 But also, it would have a terrible impact on 11 the rest of the workforce, when they see that some 12 people get away some things and other people are 13 held accountable. We never know whether there is an 14 actual violation, until we complete an 15 investigation. 16 Q. Based on your experience, would you have feared 17 potential legal ramifications from Ms. Stone, if you 18 had not investigated her complaints? 19 A. My involvement didn't really involve fear of 20 legal ramifications. My involvement was earlier on 21 in the investigation, usually, and was more focused 22 on what are we doing in accordance with the 23 Southwest policies, the Collective Bargaining 24 Agreement. 25 And then, if it goes further from there, are</p>

<p style="text-align: right;">Page 1554</p> <p>1 there any -- any legal ramifications? For instance, 2 if Ms. Stone brought forward allegations of sexual 3 abuse or violation. That then gets into the legal 4 territory. But I'm not an attorney, so -- 5 Q. I understand. Thank you, Ms. Emlet. 6 You mentioned policies. 7 Are you aware of any annual acknowledgement 8 requirement by flight attendants pertaining to 9 policies? 10 A. Yes. 11 Q. Can you describe what that is to the jury? 12 A. Yes. I would need to see the documents to tell 13 you exactly which policies, but I know that every 14 year, the flight attendants are required to -- they 15 are sent a notice via their laptops -- iPads that 16 they are issued, and the notice is to say that they 17 have read and agreed to comply with the different 18 policies, including the social media policy and I 19 believe the discrimination policy. 20 Q. Are flight attendants allowed to continue 21 flying if they don't acknowledge those policies and 22 policy updates? 23 A. They are not. 24 Q. So in order for Ms. Carter to continue to fly, 25 she would have acknowledged the cyberbullying</p>	<p style="text-align: right;">Page 1555</p> <p>1 policy, is that correct? 2 A. That's correct. 3 Q. Did the union exert any undue or unwanted 4 pressure during your investigation of Ms. Stone's 5 complaints against Ms. Carter? 6 A. No. 7 Q. Did the union exert any undue or unwanted 8 pressure in the decision to terminate Ms. Carter? 9 A. No. 10 MR. McKEEBY: Pass the witness. 11 THE COURT: All right. 12 MR. HILL: We don't have anything. 13 THE COURT: What's that? 14 MR. HILL: We don't have anything. 15 THE COURT: Okay. So there is no need for 16 a round two with this witness. 17 MR. McKEEBY: I do have one question. 18 THE COURT: Based on his? 19 MR. McKEEBY: No. I will do it with 20 another witness. 21 THE COURT: That works. So you are 22 excused as a witness. Congratulations. Thank you 23 for your testimony. 24 THE WITNESS: Thank you. 25 THE COURT: Who do you plan to call next,</p>
<p style="text-align: right;">Page 1556</p> <p>1 Mr. McKeeby? 2 MR. McKEEBY: I plan to call Ms. Hudson 3 next. 4 THE COURT: Okay. You may do so -- 5 actually, why don't we take a break while you 6 resituate. We will take our last break of the 7 afternoon. 8 Same instructions: You can only talk to 9 your fellow jurors and court personnel, just not 10 about the case; can't talk to anyone else; and don't 11 do any research about the case. We will see you in 12 10 minutes at 3:40. All rise. 13 (The jurors exited the courtroom.) 14 MR. McKEEBY: Housekeeping question, may 15 mass Ms. Emlet be excused? She's -- 16 THE COURT: Yes. Yes. Any objections to 17 cutting her loose? 18 MR. HILL: No objection. 19 THE COURT: Okay. Let's cut her loose. 20 That is fine. And then if you want Ms. Hudson to be 21 on the stand at the end of the break, that's fine 22 too. 23 So we will be back here at 3:40 with 24 Hudson on the stand, you can be at the podium, and 25 we will rock and roll. Thank you. See you in nine</p>	<p style="text-align: right;">Page 1557</p> <p>1 minutes. 2 (Recess.) 3 THE COURT SECURITY OFFICER: All rise. 4 THE COURT: Anything before we get the 5 jury? 6 MR. GILLIAM: No. 7 THE COURT: Okay. Ms. Hudson, welcome. 8 Once they come in, then we will have you stand up, 9 and then Mr. Frye is going to give you the oath. 10 THE WITNESS: Okay. 11 (The jurors entered the courtroom.) 12 THE COURT: Okay. You can be seated. 13 Mr. McKeeby, you called your next witness 14 already. Can you tell the jury her name? 15 MR. McKEEBY: Naomi Hudson. 16 THE COURT: Okay. Ms. Hudson, can you 17 raise your right hand, and Mr. Frye will swear you 18 in. 19 (NAOMI HUDSON was duly sworn by the 20 Clerk.) 21 THE COURT: Now you can take a seat. And 22 then I will say the same thing I do to every 23 witness, I'm just going to ask for some space 24 between questions from lawyers and your answers, and 25 then some space that they give you between your</p>

<p style="text-align: right;">Page 1558</p> <p>1 answers and their questions. That way, if there is 2 an objection, I can rule on the objection before you 3 launch into an answer. 4 THE WITNESS: Okay. 5 THE COURT: You can proceed, Mr. McKeeby. 6 MR. McKEEBY: Thank you. 7 DIRECT EXAMINATION 8 BY MR. McKEEBY: 9 Q. Can you state your full name for the jury 10 please? 11 A. Naomi Hudson. 12 Q. Where do you live, Mr. Hudson? 13 A. Carrollton, Texas. 14 Q. Are you currently employed? 15 A. I am not. 16 Q. Where were you previously employed? 17 A. Southwest Airlines. 18 Q. How long have you been retired? 19 A. Two-and-a-half years. 20 Q. I said retired. Maybe I shouldn't assume that. 21 Are you retired? 22 A. I am retired. 23 Q. What did you do prior to your retirement at 24 Southwest Airlines? 25 A. Twenty-eight years at Southwest Airlines. And</p>	<p style="text-align: right;">Page 1559</p> <p>1 my most recent position was a senior advisor. But 2 immediately prior to that, I was senior director of 3 labor relations, including of the flight attendant 4 work group, we call it in flight services or cabin 5 services. 6 Q. And was that your position, senior director of 7 labor relations -- excuse me -- in February of 2017? 8 A. Yes. 9 Q. And can you explain to the jury what you did as 10 the senior director of labor relations? 11 A. Yes. 12 Q. What was your job? 13 A. I will. 14 Well, I was responsible for -- as the lead 15 negotiator for Collective Bargaining Agreement. And 16 that is our contract, our work group contract with 17 our flight attendants. I represented Southwest 18 Airlines of the negotiating team as a lead. I also 19 oversaw the grievance -- any grievance process that 20 had to do with disputes between the company and the 21 union, any grievances filed typically by the union 22 against the company for either contractual 23 provisions or for discipline, up and including 24 termination. 25 I was the liaison and spokesperson for our</p>
<p style="text-align: right;">Page 1560</p> <p>1 company in that particular regard, to make sure that 2 we addressed the grievances timely, in accordance to 3 our contract. 4 And what else did I do? I oversaw a team of 5 people that were responsible for the daily operation 6 of the administration of the contract. And I was a 7 company liaison between various work groups 8 responsible for -- by work groups, I mean different 9 divisions within the company that had questions 10 regarding our flight attendants and whether or not 11 we could propose certain things for them to do. So 12 we interpreted the contract for our company. 13 Q. The jury heard testimony before you from 14 Maureen Emlet. Do you know Ms. Emlet? 15 A. I do. 16 Q. And what was her relationship professionally 17 with you in February of 2017? Did she report to 18 you? 19 A. Yes. I'm trying to remember the dates, because 20 I went back and forth. 21 But in that time period, she would have -- she 22 was a manager, under my responsibilities. But her 23 immediate boss would have been the director, and the 24 director reported to me. So Maureen was one of my 25 managers.</p>	<p style="text-align: right;">Page 1561</p> <p>1 MR. McKEEBY: Okay. Let me pull up 2 Exhibit 66, which is in evidence. 3 MR. PRYOR: It is not on the list of 4 exhibits, object -- 5 THE COURT: Sixty-six is in already. 6 MR. PRYOR: I thought we were supposed to 7 reveal the exhibits we were using -- 8 THE COURT: Sidebar, please. 9 MR. PRYOR: If that is not the case, I'll 10 withdraw. 11 THE COURT: Okay. If it is already in, I 12 will let anyone talk about it. 13 MR. PRYOR: Okay. 14 BY MR. McKEEBY: 15 Q. Do you believe you are the same Naomi Hudson 16 who is listed on this email? 17 A. Yes. 18 Q. Do you remember getting this email? 19 A. Didn't know I needed to bring my cheaters, but 20 hold on. 21 Q. Okay. Sorry. 22 THE COURT: Thank you. 23 BY MR. McKEEBY 24 Q. We have some assistance for you. 25 A. Thank goodness.</p>

<p style="text-align: right;">Page 1562</p> <p>1 Yes.</p> <p>2 Q. And yes, you remember seeing this?</p> <p>3 A. Yes, I do. I'm sorry.</p> <p>4 Q. Now, did you know -- I take it you knew</p> <p>5 Ms. Stone prior to receiving the email?</p> <p>6 A. Yes.</p> <p>7 Q. And did you know Ms. Carter, who is in the</p> <p>8 courtroom today, the person about whom Stone was</p> <p>9 complaining?</p> <p>10 A. No, I'm afraid I didn't.</p> <p>11 Q. Okay.</p> <p>12 Now, what actions would you have taken in</p> <p>13 response to getting an email like this?</p> <p>14 A. Well, this type of -- and I recall it, I don't</p> <p>15 remember the full context of this particular email,</p> <p>16 but I do know that this is a complaint about</p> <p>17 potential harassment and such.</p> <p>18 And so we have another division within</p> <p>19 Southwest Airlines that conducts investigations for</p> <p>20 these types of -- for this type of activity --</p> <p>21 potential activity or alleged activity. And so I</p> <p>22 would ensure that it is referred to them, in</p> <p>23 addition that somebody from my team -- for example,</p> <p>24 in Maureen's position -- that was aware of it, so</p> <p>25 they can ensure that we are within our time frames?</p>	<p style="text-align: right;">Page 1563</p> <p>1 Again, as outlined in our Collective Bargaining</p> <p>2 Agreement. But we would -- I would make sure that</p> <p>3 the appropriate folks saw and were aware of this</p> <p>4 complaint.</p> <p>5 Q. And by "appropriate folks," you mean people in</p> <p>6 departments or --</p> <p>7 A. Yes. The employee relations department, as</p> <p>8 well as they call -- in my department, my division,</p> <p>9 not a department -- but my division, of labor</p> <p>10 relations.</p> <p>11 Q. And did you consult with Ms. Emlet in</p> <p>12 connection with her involvement in this process?</p> <p>13 A. I don't recall specifically talking to her. I</p> <p>14 probably did. But to be very specific, I don't</p> <p>15 remember a specific conversation with her.</p> <p>16 I'm sure I did, but I don't -- I can't swear</p> <p>17 that I remember a conversation.</p> <p>18 Q. All right.</p> <p>19 Did you what the -- did you have occasion to</p> <p>20 watch the videos?</p> <p>21 A. I did. Now, I don't know if it was two or one,</p> <p>22 but I do recall seeing a video.</p> <p>23 Q. What was your reaction when you saw the video?</p> <p>24 A. I was a stunned, number one, shocked. I think</p> <p>25 pretty saddened and kind of disappointed.</p>
<p style="text-align: right;">Page 1564</p> <p>1 Q. Why were you saddened?</p> <p>2 A. Well, we all have our views about things, and</p> <p>3 that is okay. Nobody is trying to tell somebody</p> <p>4 what to think.</p> <p>5 But we have standards at Southwest Airlines,</p> <p>6 and we have -- the company ensures that we are</p> <p>7 treating each other with a measurement of respect</p> <p>8 and care, and understanding that we are all</p> <p>9 different. Diverse work group to say the least, and</p> <p>10 that is what we want.</p> <p>11 So when it comes to certain things like this,</p> <p>12 such graphic, such shocking egregiousness, it is</p> <p>13 just not acceptable.</p> <p>14 Q. And did you have an opinion about the decision</p> <p>15 to terminate Ms. Carter's employment?</p> <p>16 A. Yes. I did have an opinion.</p> <p>17 Q. What was that, what was the opinion?</p> <p>18 A. The opinion is --</p> <p>19 MR. PRYOR: Object to relevance, Your</p> <p>20 Honor, she wasn't -- lack of foundation, as to a</p> <p>21 decision maker.</p> <p>22 THE COURT: Sustained.</p> <p>23 BY MR. McKEEBY:</p> <p>24 Q. Let me --</p> <p>25 MR. PRYOR: And I apologize. I'm not sure</p>	<p style="text-align: right;">Page 1565</p> <p>1 if an answer got in, if it did, I would move to</p> <p>2 strike.</p> <p>3 THE COURT: No, it didn't.</p> <p>4 MR. PRYOR: Okay. I couldn't hear.</p> <p>5 BY MR. McKEEBY:</p> <p>6 Q. Can you identify this document for the jury?</p> <p>7 A. Yes, I can. That is a required reading. We</p> <p>8 call it read before fly at that time. I think we</p> <p>9 still -- have another term for it maybe now.</p> <p>10 But it is a memo from me, it was Naomi Hudson,</p> <p>11 senior director of labor relations. And it is</p> <p>12 regarding social media behavior and policy, and is a</p> <p>13 reminder only to our -- to our flight attendant work</p> <p>14 group about the responsibilities, and our</p> <p>15 expectations as a company.</p> <p>16 Q. And this looks it was issued on October 12,</p> <p>17 2016?</p> <p>18 A. Yes.</p> <p>19 Q. And do you recall the context of issuing this</p> <p>20 memorandum or authoring it, I guess?</p> <p>21 A. Yes. Again, reminding our employees of their</p> <p>22 responsibilities. And without reading it directly,</p> <p>23 just that -- that social media is there. It is</p> <p>24 there as a tool.</p> <p>25 And while we are not Pollyanna, we are not</p>

<p style="text-align: right;">Page 1566</p> <p>1 blind as a company and think that everything is all 2 roses, there is a certain line -- and there is no 3 specific direct line -- but we all know not to just 4 to be rude and hateful. And just remember that 5 things that are posted on social media, no matter if 6 they are private, they -- they are forever there and 7 they can be passed on to others. 8 And we -- we have -- we can't allow our 9 employees to say something to another employee that 10 is going to impact their work life, not that, oh, I 11 don't like your orange dress today but -- or your 12 flowery jacket, whatever you have on today, but 13 something just so egregious and so gross, we don't 14 allow that type of behavior. So we are just 15 reminding people of the policies and to definitely 16 review the policy. 17 And if you have questions, of course, you know, 18 we always welcome questions from our employees. But 19 just as a reminder, that here is what -- we are 20 seeing a lot of reports, let's cut it out. 21 Q. We are seeing a lot of reports, you said? 22 A. From various people. Yeah. That's -- that 23 would have generated this particular memo. Not 24 just, you know, I have nothing else to do, so I'm 25 just, you know, write a memo because today it is</p>	<p style="text-align: right;">Page 1567</p> <p>1 Wednesday, or whatever day it was. Probably 2 Tuesday. 3 But because things are going on. And we have 4 to remind our employees about their behavior and our 5 expectations as a Southwest Airlines employee. When 6 people sign up to work for Southwest Airlines -- and 7 not a perfect company by far -- but one of the best, 8 I'll tell you that. 9 Q. What -- go ahead. I'm sorry. 10 A. No, but I will tell you, we have expectations. 11 We have high expectations of our employees. Just 12 the same as our customers have high expectations of 13 the company. 14 Q. And what are those expectations vis-a-vis 15 employees? 16 A. Treat people courteous -- I'm sorry. Do tell 17 me slow down, so I will do that. 18 THE COURT: It is okay. 19 THE WITNESS: Treat people with respect, 20 right people the way you would like to be treated. 21 And, you know, without giving the exact, but, you 22 know, we believe in customer service, we believe in 23 a high standard of customer service. 24 And we talk about internal customer 25 service no matter what we are teaching. We teach it</p>
<p style="text-align: right;">Page 1568</p> <p>1 in new hire, we teach it in every year recurrent 2 training, we teach it -- not just teach it, but we 3 talk about it, we engage our employees in what 4 customer service is. 5 BY MR. McKEEBY: 6 Q. What does that concept of internal customer 7 service mean? 8 A. It means that because I have a coworker, I'm 9 not going to treat that coworker rudely. I wouldn't 10 want anybody to treat our paying customers rudely. 11 I am most certainly not going to treat anybody I 12 work with rudely either. We just don't do that. It 13 is not acceptable. 14 Q. And does this document reflect that policy, 15 philosophy? 16 A. It refers to the -- yeah, I think it does, 17 because southwest Airlines's policies may be found 18 in SWA Life, and that is exactly where we keep our 19 policies. 20 Q. Let me direct your attention to the second to 21 last paragraph the first sentence, we must all 22 remember. 23 A. Yeah, our mission statement. Thank you for 24 pointing that out. 25 Q. You are welcome.</p>	<p style="text-align: right;">Page 1569</p> <p>1 What is the mission statement? 2 A. It is -- I don't -- I can't quote it right now, 3 but it is to the highest standards of customer 4 service. We are committed to that for our 5 customers, we are committed to that for our 6 employees. 7 And I will tell you this, some customers -- I 8 mean, a lot of companies have mission statements. 9 Southwest Airlines' mission statement to our 10 employees is equally important as it is to our 11 paying customers. It just is. 12 And that is ingrained from the day we begin 13 working, the day we fly. I used to be a corporate 14 recruiter from Southwest Airlines, so I can tell you 15 that I know that for a fact. That is engrained in 16 applicants. And we will let them know, if this does 17 not work out for you, this is not the right place, 18 because these are our expectations. 19 Q. Understood. 20 I want to go up to the second paragraph, the 21 second line, that starts with, when negative 22 comments. This talks about being detrimental to 23 Southwest brand, and yours as well. 24 What does that mean? 25 A. Well, you know, we put on -- a lot of people --</p>

<p style="text-align: right;">Page 1570</p> <p>1 not we, I take that back -- some people on Southwest 2 Airlines, they are proud to work for the company, 3 they will say their position, and they sometimes put 4 things about their work life. And that is great. 5 And we want to promote that. We want people to know 6 that our employees are not just the one -- the ones 7 behind the uniform, but they are human. They have 8 family, they have activities, travel, and all that 9 such. 10 But when you do something so gross -- for 11 example, this video -- and other things that are 12 just completely gross, that is a reflection on 13 Southwest Airlines. Even though it may be deemed 14 initially as private, not much is very private. In 15 fact, I'm not quite sure anything electronically is 16 private ever. But so it is a negative brand there. 17 But then also, I think about -- and I have 18 talked about this with some of my colleagues -- I 19 wonder about these people that would post something 20 so outrageous as -- I wonder if their family knows 21 that they do this. I mean, their brand, I wonder if 22 their members of their personal clubs or 23 organizations that they belong to, know that this 24 is, you know, the behavior. 25 So that is what we mean by brand, the company's</p>	<p style="text-align: right;">Page 1571</p> <p>1 brand and the individual's brand. 2 Q. And by individuals, you mean employees? 3 A. Yes. 4 MR. McKEEBY: Pass the witness. 5 THE COURT: Okay. Mr. Greenfield. 6 CROSS-EXAMINATION 7 BY MR. GREENFIELD: 8 Q. Hello, Ms. Hudson. 9 A. Hello. 10 Q. My name is Adam Greenfield, and I'm one of the 11 attorneys that represents Local 556 in this matter. 12 A. Okay. 13 Q. A few questions for you. 14 What Audrey Stone became president of the 15 Union, did she lose her rights to be free from 16 harassment as an employee of Southwest Airlines? 17 A. No, of course not. 18 Q. Are you aware of any instance in which the 19 union was able to influence how Southwest Airlines 20 conducted an investigation into an employee 21 complaint? 22 A. No. 23 Q. Are you aware of any instance in which the 24 union excerpted undue or unwanted that pressure in 25 the decision of Southwest Airlines to terminate an</p>
<p style="text-align: right;">Page 1572</p> <p>1 employee? 2 A. No. 3 MR. McKEEBY: Pass the witness, your 4 Honor. 5 THE COURT: All right. Mr. Pryor. 6 MR. PRYOR: No questions, your Honor. 7 THE COURT: No questions for this witness. 8 Okay. Any questions from Southwest 9 responsive to Mr. Greenfield's questions? 10 MR. McKEEBY: No, your Honor. 11 THE COURT: That means we are done with 12 your testimony. Thank you for coming in. You are 13 excused as a witness. 14 THE WITNESS: Okay, thank you. 15 THE COURT: Any issues with me excusing 16 her as a witness? 17 MR. PRYOR: Can be excused. 18 THE COURT: You may leave the courtroom. 19 THE WITNESS: Thank you. Okay. And can I 20 ask Southwest who the next witness is? 21 MR. McKEEBY: Yes, Ed Schneider. 22 THE COURT: Okay. You may call 23 Mr. Schneider back. 24 (The witness exited the courtroom.) 25 (The witness entered the courtroom.)</p>	<p style="text-align: right;">Page 1573</p> <p>1 THE COURT: Okay. Mr. Schneider. You can 2 come back up here to the place you know all too 3 well. Because I let you out as witness last time, I 4 need to put you under oath again. So if you could 5 stay standing, and Mr. Frye will administer the 6 oath. 7 (ED SCHNEIDER was duly sworn by the 8 Clerk.) 9 THE COURT: Okay. And you know the 10 routine, I'm just asking for some space between 11 their questions and your answers, and your answers 12 and their questions so I can rule on objections. 13 You can continue -- well, you can start 14 again. 15 DIRECT EXAMINATION 16 BY MR. McKEEBY: 17 Q. Okay. I think I'm going to probably cover some 18 stuff -- basic stuff that may have been covered 19 initially, but can you explain who you are to the 20 jury -- remind the jury who you are? 21 A. My name is Ed Schneider. I am one of the -- 22 the base manager for our Denver in flight team at 23 Southwest Airlines. 24 Q. What does a base manager do? 25 A. I oversee all of the operation of our in flight</p>

<p style="text-align: right;">Page 1574</p> <p>1 base, which is 2400 flight attendants that we have 2 in our base. And I have a staff of 21 that I 3 oversee that takes care of those flight attendants 4 and their daily duties. 5 Q. Who are the staff of 21, what kind of employees 6 are they? 7 A. I have 13 supervisors and five coordinators and 8 three assistant base managers that help me run the 9 operation. 10 Q. And I'm sorry if you -- I don't remember if you 11 mentioned this in your description. 12 Are you specific to in flight operations? 13 A. Yes. 14 Q. So do the flight attendants who report to 15 the -- or through the Denver base, I should say, do 16 they report through you? 17 A. The supervisors are their immediate leader, and 18 then they report to me, yes. 19 Q. So do you have, like, an office at the airport, 20 or where do you go when you go to work? 21 A. Yes. It is in the C concourse where Southwest 22 Airlines operation in the Denver base is located. 23 Q. How long have you been employed with Southwest 24 Airlines? 25 A. It will be 28 years this month.</p>	<p style="text-align: right;">Page 1575</p> <p>1 Q. And have you -- have you ever been a flight 2 attendant with Southwest? 3 A. I have. I flew as a flight attendant for 4 Southwest for eight and-a-half years. 5 Q. During what period of time? 6 A. 1996 to 2004. 7 Q. Excuse me. 8 During that time, were you a member of the 9 Union while you were a flight attendant? 10 A. Yes, I was. 11 Q. What did you do before working for Southwest? 12 A. I worked for Delta Airlines, I worked in their 13 customer service department. 14 Q. And what about prior to that? 15 A. Prior to that, I worked for the university that 16 I went to, National University in San Diego and 17 attended college. 18 Q. Were you in the military ever? 19 A. I was. I spent five years active duty in the 20 military and four years reserve. 21 Q. What branch? 22 A. Navy. 23 Q. Now, I think we have established at some level 24 that you were involved in the investigation of 25 complaints made against Charlene Carter?</p>
<p style="text-align: right;">Page 1576</p> <p>1 A. Yes. 2 Q. Now, did you know Ms. Carter prior to the 3 investigation based on your position as base manager 4 in Denver? 5 A. No, I did not. I was in Denver just a short 6 time before this. 7 Q. When did you start in Denver? 8 A. January of 2017. 9 Q. And before that, where were you? 10 A. Phoenix, Arizona. 11 Q. So did you have -- had you made any impressions 12 of Ms. Carter prior to the investigation? 13 A. Not that I'm aware of. 14 MR. McKEEBY: Let's go to Exhibit 76. 15 This is in evidence. 16 THE COURT: It is. We have got the 17 screens un-muted. The jury can see it. 18 MR. McKEEBY: Thank you, your Honor. 19 BY MR. McKEEBY: 20 Q. Is this email how you became aware of 21 Ms. Stone's complaints against Ms. Carter? 22 A. Yes, part way down the email string, yes. 23 Q. And if you could remind the jury who -- looks 24 like the original recipient of the email is Suzanne 25 Stephenson.</p>	<p style="text-align: right;">Page 1577</p> <p>1 Who is that? 2 A. She is -- she was the Las Vegas based manager 3 at the time. And Ms. Stone was based in Las Vegas. 4 Q. And then it looks like you forwarded the email 5 to employee relations DG, is that -- do I read that 6 correctly? 7 A. Yes. 8 Q. Who is DG? 9 A. That is the entire employee relations group. I 10 send it to the group and they can decide who the 11 investigator will be in their department. 12 Q. And in your -- in your email to employee 13 relations, you indicate the images are graphic. 14 A. Yes. 15 Q. I take it that means you had seen the video? 16 A. Yes. 17 Q. Had you seen one or two videos at that point, 18 if you remember? 19 A. I don't recall that early in the investigation 20 exactly when I saw both of them. 21 Q. But it appears from this that you saw at least 22 one of the videos at this point? 23 A. Yes, that is correct. 24 Q. And at some point in the investigation, did you 25 see both of the videos?</p>

<p style="text-align: right;">Page 1578</p> <p>1 A. Yes, I did.</p> <p>2 Q. And regardless of when exactly in time you saw</p> <p>3 the videos, can you explain to the jury your</p> <p>4 reaction when you -- when you viewed those?</p> <p>5 A. I was very disheartened as to why someone would</p> <p>6 send these graphic images and videos to another</p> <p>7 employee at Southwest Airlines.</p> <p>8 It affected me, seeing those images, and I</p> <p>9 couldn't imagine someone who may have gone through</p> <p>10 something like that, viewing them at the same time.</p> <p>11 And I thought they were very disturbing.</p> <p>12 Q. What do you mean someone who may have gone</p> <p>13 through something like that?</p> <p>14 A. At the time, I wasn't aware if Ms. Stone would</p> <p>15 have been through something like that or could have</p> <p>16 been affected adversely by them.</p> <p>17 Q. And -- and did you have -- did you know</p> <p>18 Ms. Stone prior to being involved in this case?</p> <p>19 A. I did not know her. I knew she was the</p> <p>20 president of the TWU Local 556.</p> <p>21 Q. Had you ever spoken to her?</p> <p>22 A. No.</p> <p>23 Q. What did you understand Ms. Gutierrez's role in</p> <p>24 the investigation to be?</p> <p>25 A. Ms. Gutierrez is in charge of determining if a</p>	<p style="text-align: right;">Page 1579</p> <p>1 harassment, sexual harassment -- any of those -- may</p> <p>2 violate one of the protected categories. And her --</p> <p>3 she will let me know if she feels that was the case.</p> <p>4 Q. And did you involve any work groups other than</p> <p>5 employee relations in the investigation?</p> <p>6 A. Yes. I worked with labor relations also and</p> <p>7 the human resource business partner.</p> <p>8 Q. Who is the human resources business parents?</p> <p>9 A. Edith Barnett.</p> <p>10 Q. And what was the role of the labor -- who was</p> <p>11 the labor relations employee?</p> <p>12 A. Maureen Emlet.</p> <p>13 Q. Did you reach out to Ms. Emlet or did she reach</p> <p>14 out to you or do you remember?</p> <p>15 A. I reached out to her.</p> <p>16 Q. What was your purpose in reaching out to</p> <p>17 Ms. Emlet?</p> <p>18 A. I work with labor relations on all of our cases</p> <p>19 to make sure that we are following the guidelines.</p> <p>20 Q. What guidelines do you mean?</p> <p>21 A. As far as giving the employee due process and</p> <p>22 making sure they have their time to share whatever</p> <p>23 information they have.</p> <p>24 Q. What is the context of due process mean to you</p> <p>25 in that context?</p>
<p style="text-align: right;">Page 1580</p> <p>1 A. It means that someone is given the ability to</p> <p>2 explain themselves or give details about what may or</p> <p>3 may not have happened.</p> <p>4 Q. Since we are kind of on the topic, in</p> <p>5 Mr. Pryor's examination of you, there was some</p> <p>6 testimony about going back further than 18 months</p> <p>7 with respect to some of Ms. Carter's Facebook posts,</p> <p>8 do you recall that?</p> <p>9 MR. PRYOR: Object to improper direct,</p> <p>10 that would have been appropriate cross-examination.</p> <p>11 THE COURT: That's a speaking objection.</p> <p>12 I will allow it.</p> <p>13 BY MR. McKEEBY:</p> <p>14 Q. What is the significance of the 18 months?</p> <p>15 A. We have rules that we cannot go back more than</p> <p>16 18 months during a look back at a person's history,</p> <p>17 to determine whether it is discipline or anything</p> <p>18 that may have happened in that time frame. We</p> <p>19 cannot go back further than 18 months.</p> <p>20 Q. Meaning you can't back further than 18 months</p> <p>21 for what purpose?</p> <p>22 A. For -- when we are looking at past history of</p> <p>23 discipline, or discussions, anything that may have</p> <p>24 happened with the flight attendant in the past 18</p> <p>25 years [sic]? With their work history.</p>	<p style="text-align: right;">Page 1581</p> <p>1 Q. Now did that apply to the review of</p> <p>2 Ms. Carter's Facebook posts in connection with the</p> <p>3 investigation?</p> <p>4 A. No, it did not.</p> <p>5 Q. Explain to the jury why not.</p> <p>6 A. The Facebook posts were just indicating a</p> <p>7 history of what transpired on Facebook, and that</p> <p>8 wasn't related to the investigation as far as her</p> <p>9 work history and those things.</p> <p>10 Q. Now, did you interview Ms. Stone in connection</p> <p>11 with your investigation?</p> <p>12 A. I did, yes.</p> <p>13 Q. What do you recall about that interview?</p> <p>14 A. She was affected about those images, and it --</p> <p>15 it made her feel that she was being targeted. And</p> <p>16 she brought up the history of how it transpired and</p> <p>17 things that have happened to her in the past, and</p> <p>18 the march, and those type of things that happened.</p> <p>19 Q. When you say history of things that had</p> <p>20 happened to her in the past, what do you mean?</p> <p>21 A. The Facebook messages that were sent to her.</p> <p>22 And kept coming over the past year and a half to two</p> <p>23 years. And she was feeling that they progressively</p> <p>24 were getting worse.</p> <p>25 Q. And you said you discussed the Women's March</p>

<p style="text-align: right;">Page 1582</p> <p>1 during Stone's interview. Did I understand that</p> <p>2 correctly?</p> <p>3 A. Yes.</p> <p>4 Q. What did Ms. Stone say about the Women's March?</p> <p>5 A. She said that Ms. Carter was upset about the</p> <p>6 march.</p> <p>7 Q. And did you make any assessments -- I think you</p> <p>8 alluded to this, but I want to make sure I'm</p> <p>9 clear -- any assessments during that interview with</p> <p>10 Ms. Stone on the impact of the videos on her</p> <p>11 personally?</p> <p>12 A. Yes. She was devastated by them. She broke</p> <p>13 down in the discussion with it, and I could tell it</p> <p>14 affected her to a great extent. And she was very</p> <p>15 upset about it.</p> <p>16 Q. And I think you said that you reviewed Carter's</p> <p>17 previous Facebook messages to Ms. Stone. Do I</p> <p>18 understand that correctly?</p> <p>19 A. Yes.</p> <p>20 Q. What was your purpose in reviewing those</p> <p>21 messages?</p> <p>22 A. They were given to me, and I wanted to make</p> <p>23 sure that I reviewed everything that was given to me</p> <p>24 for evidence or indicating what may have happened in</p> <p>25 the past.</p>	<p style="text-align: right;">Page 1583</p> <p>1 Q. Did you ask for those historical messages?</p> <p>2 A. When she mentioned them, in the meeting, yes, I</p> <p>3 asked for those, if she was willing to share them.</p> <p>4 Q. You asked Ms. Stone?</p> <p>5 A. Yes.</p> <p>6 Q. And did she share them?</p> <p>7 A. Yes. She did.</p> <p>8 Q. And if we go to Exhibit 94. Let's go -- just</p> <p>9 kind of flip through there, if you would.</p> <p>10 Are these the --</p> <p>11 THE COURT: Ninety-four is in evidence and</p> <p>12 the jury can see this.</p> <p>13 MR. McKEEBY: Yes, sorry.</p> <p>14 BY MR. McKEEBY:</p> <p>15 Q. Are these the historical emails that you</p> <p>16 reviewed?</p> <p>17 A. Yes.</p> <p>18 Q. And explain to the jury to what degree you</p> <p>19 considered these emails in connection with your</p> <p>20 decision to terminate Ms. Stone's employment?</p> <p>21 A. It wasn't considered to any great extent, just</p> <p>22 the history of what had transpired between</p> <p>23 Ms. Carter and Ms. Stone. And the fact that there</p> <p>24 had been prior messages sent, and it wasn't -- it</p> <p>25 didn't involve the termination decision. That was</p>
<p style="text-align: right;">Page 1584</p> <p>1 all just the images and videos that were sent to</p> <p>2 Ms. Stone.</p> <p>3 Q. I think you told Mr. Pryor that you regarded</p> <p>4 the emails nonetheless as harassing, is that true?</p> <p>5 MR. PRYOR: I object to improper direct.</p> <p>6 He's referring to my questioning, it should have</p> <p>7 been on cross-examination.</p> <p>8 THE COURT: I'll allow it.</p> <p>9 BY MR. McKEEBY:</p> <p>10 Q. Can you explain to the jury what you meant by</p> <p>11 that term in connection with these emails -- I'm</p> <p>12 sorry, Facebook messages?</p> <p>13 MR. PRYOR: I apologize, could I get the</p> <p>14 question, I didn't hear the words used.</p> <p>15 THE COURT: You can reask it.</p> <p>16 MR. PRYOR: Thanks.</p> <p>17 MR. McKEEBY: Can you repeat it? I'm</p> <p>18 sorry.</p> <p>19 (Thereupon, the requested portion was read</p> <p>20 back by the reporter as above recorded.)</p> <p>21 BY MR. McKEEBY:</p> <p>22 Q. And the term I meant was harassment.</p> <p>23 A. Yes. The fact that they were telling her that</p> <p>24 she's not fit to do the job, that she will be</p> <p>25 removed, and there is a group that are going to make</p>	<p style="text-align: right;">Page 1585</p> <p>1 sure that she's removed from office, and the fact</p> <p>2 that it talked about her personally also, inept at</p> <p>3 her job and those type of things.</p> <p>4 Q. And if you go to the first page of this</p> <p>5 document, it looks like Ms. Stone is sending this to</p> <p>6 Ms. Gutierrez?</p> <p>7 A. Yes.</p> <p>8 Q. And then is that you copied on the email?</p> <p>9 A. Yes, it is.</p> <p>10 MR. McKEEBY: Let's go to Exhibit 50. And</p> <p>11 I apologize, I think this is admitted.</p> <p>12 THE COURT: I can check. Fifty is not.</p> <p>13 MR. McKEEBY: Move for -- to admit</p> <p>14 Exhibit 50.</p> <p>15 THE COURT: Anything on 50 from union or</p> <p>16 from Carter.</p> <p>17 MR. PRYOR: It is not on their list.</p> <p>18 THE COURT: All right.</p> <p>19 MR. PRYOR: And I think this is</p> <p>20 duplicative of a variety of other exhibits too.</p> <p>21 MR. McKEEBY: I think it is in evidence in</p> <p>22 another exhibit, and I just don't have it handy.</p> <p>23 THE COURT: All right. I will let you</p> <p>24 circle back to it at the end of the testimony.</p> <p>25 MR. McKEEBY: Okay. Let's go to</p>

<p style="text-align: right;">Page 1586</p> <p>1 Exhibit 90.</p> <p>2 THE COURT: Any objection to 90?</p> <p>3 MR. PRYOR: Which exhibit? Just a moment,</p> <p>4 Your Honor.</p> <p>5 THE COURT: It is in. So we are</p> <p>6 published. Sorry. You can discuss it at will.</p> <p>7 BY MR. McKEEBY:</p> <p>8 Q. What is Exhibit 90, Mr. Schneider?</p> <p>9 A. That is an email from Denise Gutierrez</p> <p>10 initially on the string, and then Maureen Emlet</p> <p>11 indicating evidence of nexus to the workplace</p> <p>12 between Charlene Carter and Southwest.</p> <p>13 Q. What does that concept mean, nexus to the</p> <p>14 workplace?</p> <p>15 A. It is something where, on Facebook, a person</p> <p>16 publicly can see that the person is employed by</p> <p>17 Southwest Airlines.</p> <p>18 Q. And did you access Ms. Carter's Facebook page</p> <p>19 in connection with the investigation?</p> <p>20 A. I did not.</p> <p>21 Q. Did you have a Facebook account?</p> <p>22 A. I don't personally, no. My wife has an account</p> <p>23 and she shows me things sometimes. But that is it.</p> <p>24 Q. So somebody else pulled the posts for you, I</p> <p>25 take it?</p>	<p style="text-align: right;">Page 1587</p> <p>1 A. Yes, in my office.</p> <p>2 Q. And what did these nexus posts show you?</p> <p>3 A. One of them showed flight attendant wings with</p> <p>4 her name on it. One of them showed her in uniform</p> <p>5 next to an aircraft, Southwest aircraft.</p> <p>6 And others showed, I think it was a friend of</p> <p>7 the family and her husband, possibly, in uniform.</p> <p>8 And -- I'm trying to recall them all. Those are the</p> <p>9 ones I remember.</p> <p>10 Q. How about let's go to I think 90.8?</p> <p>11 A. Yes. That was also one of them.</p> <p>12 Q. This is one of them?</p> <p>13 A. Yes.</p> <p>14 Q. What is the significance of this photograph?</p> <p>15 A. Herb Kelleher was our CEO in the initial time</p> <p>16 with Southwest Airlines began service. And it is</p> <p>17 the Southwest colors on it, asking for Herb's -- to</p> <p>18 get his old job back.</p> <p>19 Q. How does this -- does this link Ms. Carter to</p> <p>20 Southwest?</p> <p>21 A. Herb Kelleher is a very popular person and well</p> <p>22 known throughout the industry. And the colors,</p> <p>23 obviously, are indicative of Southwest Airlines, and</p> <p>24 it talks about the company.</p> <p>25 Q. Well, it refers to, "our CEO," correct?</p>
<p style="text-align: right;">Page 1588</p> <p>1 A. Yes.</p> <p>2 Q. And what about the next page, is this exhibit</p> <p>3 90.9, is that one of the images that you referenced</p> <p>4 earlier in your testimony just now?</p> <p>5 A. Yes, it is.</p> <p>6 Q. What does it show?</p> <p>7 A. It shows Charlene Carter and her crew next to</p> <p>8 the Southwest aircraft in the jetway.</p> <p>9 MR. McKEEBY: And let me go to the</p> <p>10 exhibit another way, your Honor, to talk about those</p> <p>11 other documents.</p> <p>12 Let's go to Exhibit 74.</p> <p>13 THE COURT: It is in, so the jury can see</p> <p>14 it.</p> <p>15 BY MR. McKEEBY:</p> <p>16 Q. I think you -- this was a document that was</p> <p>17 entered through you, if I'm not mistaken, this email</p> <p>18 at the beginning of the chain, the top, we talked</p> <p>19 about that earlier today, correct?</p> <p>20 A. Yes.</p> <p>21 Q. Okay.</p> <p>22 What I want to talk about is on page 74.5.</p> <p>23 Is that one of the public posts that you found</p> <p>24 on Ms. Carter's Facebook page?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 1589</p> <p>1 Q. Did you conduct a fact-finding meeting with</p> <p>2 Ms. Carter?</p> <p>3 A. Yes.</p> <p>4 Q. What -- what -- what does that -- explain to</p> <p>5 the jury --</p> <p>6 MR. McKEEBY: You can go ahead and take</p> <p>7 that down.</p> <p>8 BY MR. McKEEBY:</p> <p>9 Q. -- what a fact-finding meeting is.</p> <p>10 A. A fact-finding meeting is what we set up with</p> <p>11 the person who is alleged to have done something,</p> <p>12 and we agree on a date and time with the employee</p> <p>13 and their union. And we conduct the meeting</p> <p>14 face-to-face, and we give the employee time to</p> <p>15 explain what happened during the alleged event.</p> <p>16 And they can share and give testimony and give</p> <p>17 any type of evidence they have available to the</p> <p>18 investigator at that time, which would have been me.</p> <p>19 Q. And with respect to Ms. Carter's fact-finding,</p> <p>20 who was in attendance?</p> <p>21 A. It was myself, Meggan Jones, the TWU</p> <p>22 representative, Chris -- I can't remember his last</p> <p>23 name.</p> <p>24 Q. Sullivan?</p> <p>25 A. Sullivan, yes, please. Thank you.</p>

<p style="text-align: right;">Page 1590</p> <p>1 And Charlene Carter were in attendance in 2 person. And we had Denise Gutierrez from employee 3 relations and Edie Barnett from human resource 4 business partner on the phone during the meeting. 5 They could ask questions and listen. 6 Q. Was Ms. Gutierrez on the phone or was she there 7 in person? 8 A. She was on the phone. 9 Q. Where was the fact-finding held? 10 A. In the in flight base in Denver. 11 Q. And did Ms. Carter have the opportunity to tell 12 her side of the story during the fact-finding 13 meeting? 14 A. Yes. 15 Q. And did she do so? 16 A. Yes, she did. 17 Q. You mentioned Meggan Jones, is that her in the 18 courtroom? 19 A. Yes. 20 Q. What was her position? 21 A. She was my note taker for that. 22 Q. What was her job at the time? 23 A. She is the assistant base manager for Denver in 24 flight. 25 Q. And you indicated she was the note taker. What</p>	<p style="text-align: right;">Page 1591</p> <p>1 does that mean? 2 A. During these meetings, the only way we can 3 record them is by taking notes. And Meggan is very 4 adept as taking good notes and a very efficient 5 tyer -- typist, and did a great job of capturing the 6 notes on that. 7 Q. Are those notes something you reviewed after 8 she finalized them? 9 A. Yes. 10 Q. And we will get to those in a minute. 11 Did you review any -- strike that. 12 Did Ms. Carter provide you with any documents 13 at the fact-finding meeting? 14 A. Yes, she did. 15 Q. Can you generally describe those documents for 16 the jury? 17 A. They were documents that indicated the 18 participants in the Women's March and different 19 events associated with that. 20 And if I recall, there were other photos of her 21 support for pro life. 22 I don't recall all of them at this time. 23 Q. Okay. Well, I'm going to help you. 24 MR. McKEEBY: Let's pull up Exhibit 103. 25 And I don't believe this is in evidence,</p>
<p style="text-align: right;">Page 1592</p> <p>1 so Southwest moves to admit Exhibit 103. 2 THE COURT: 103 any objection. 3 MR. PRYOR: Just a moment. I need to see 4 it. This document is in a different Exhibit number 5 I guess already in evidence. But if it is just 6 the fact-finding notes, no objection, I guess, 7 again. 8 THE COURT: Any from the union, any 9 objection to 103? 10 MR. GREENFIELD: No, your Honor. 11 THE COURT: All right. 103 is in. You 12 can publish. 13 (The referred-to document was admitted in 14 Evidence as Trial Exhibit 103.) 15 THE COURT: They're published to the jury. 16 BY MR. McKEEBY: 17 Q. These are the fact finding notes, but if you go 18 to page -- well, let me start with your email. 19 MR. PRYOR: Your Honor, is it more than 20 just the fact finding notes? 21 MR. McKEEBY: It says in the email it is 22 the images as well. 23 MR. PRYOR: I'm just going through -- 24 MR. McKEEBY: Information that Ms. Carter 25 brought to the meeting that he's testified to.</p>	<p style="text-align: right;">Page 1593</p> <p>1 MR. PRYOR: Okay. 2 THE COURT: All right. You can proceed. 3 MR. PRYOR: I'm just going through the 4 document right now. 5 MR. McKEEBY: Thank you. 6 BY MR. McKEEBY: 7 Q. So explain to the jury what this email is. 8 MR. PRYOR: Okay. Wait. Your Honor, it 9 is in evidence? I still haven't had a chance do 10 scroll through the document. 11 THE COURT: You had no objection to it. 12 MR. PRYOR: Well, I had no objection when 13 I thought it was a fact finding memo. Now I found 14 out there is a lot of stuff attached to it, so I'm 15 scrolling through it -- no objection. 16 THE COURT: Okay. You can proceed. 17 BY MR. McKEEBY: 18 Q. Mr. Schneider, so it looks like that there is a 19 combination of documents in 103. 20 Would you agree with that? 21 A. Yes. 22 Q. Can you identify what those categories of 23 documents are? 24 A. I only see the front page, but when we are 25 conducting an investigation, we hold a fact-finding</p>

<p style="text-align: right;">Page 1594</p> <p>1 meeting. And before Denise Gutierrez can make her 2 decision on harassment policy, I send her the notes 3 also from the meeting so she can review and make her 4 decision. 5 Q. All right. 6 Well, the fact -- the notes are already in 7 evidence in a different exhibit, and we will go over 8 those in a moment. 9 MR. McKEEBY: At Exhibit No. 103.19, if 10 you could just kind of flip through those page by 11 page, so that the witness can see. 12 THE WITNESS: These are the images that 13 were supplied to us, but unfortunately, 14 Ms. Gutierrez and Ms. Barnett were not in the room, 15 so they didn't get to see them. So I wanted to make 16 sure that we sent the evidence to them that 17 Ms. Carter supplied for us. 18 BY MR. McKEEBY: 19 Q. Okay. I want to make sure I understand. 20 Ms. Carter handed you these documents during 21 the fact-finding meeting? 22 A. Yes. 23 Q. And you were sending them to that Ms. Emlet and 24 Ms. Gutierrez so that they would have access to what 25 Ms. Carter provided?</p>	<p style="text-align: right;">Page 1595</p> <p>1 A. Yes. 2 Q. And did you review this information in 3 connection with the fact-finding? 4 A. Yes, I did. 5 Q. Did you ask questions of Ms. Carter during the 6 fact-finding? 7 A. Yes, I did. 8 Q. Was one of those questions of Ms. Carter why 9 she sent the messages to Ms. Stone? 10 A. Yes. 11 Q. And what do you recall her response being? 12 A. She stated that she was pro life, and she 13 wanted to get this message out to everybody. And at 14 one point, she indicated that the union was pro 15 choice, and she did not agree with that. 16 MR. McKEEBY: Let's put the document back 17 up, if you would. Can you go to 103.16. 18 BY MR. McKEEBY: 19 Q. If I'm reading this correctly, it indicates 20 that Ms. Carter said she was hoping to get a 21 dialogue with Ms. Stone regarding the Women's March? 22 A. Yes. 23 Q. What was your reaction to that explanation? 24 A. The images that were sent did not elicit open 25 conversation or dialogue.</p>
<p style="text-align: right;">Page 1596</p> <p>1 Q. That is a conclusion that you came to? 2 A. Yes. 3 Q. What is the basis of that conclusion? 4 A. Because they were not questions, they were more 5 statements. 6 Q. Did you question Ms. Carter's explanation in 7 that regard? 8 A. I did. 9 Q. Did you tell her that? 10 A. I do not remember exactly if it was myself 11 asking that question. It was asked in the meeting, 12 yes. 13 Q. What question was asked during the meeting? 14 A. Did she know the affiliation -- or what 15 Ms. Stone's standing on abortion was. 16 Q. Was that important to you? 17 A. To be sent these images and graphic videos to 18 someone and not knowing their background or what has 19 happened personally in their lives, yes, it was 20 important, because it could have been detrimental to 21 someone psychologically. 22 Q. How so? I just want you to expand on that a 23 little bit. 24 A. My thought process is that not knowing the 25 background of Ms. Stone -- social media has a way of</p>	<p style="text-align: right;">Page 1597</p> <p>1 affecting people. And I know that -- I'm just going 2 to say suicide is a big thing out there, and people 3 can be affected by these type of social media 4 statements and videos and images. 5 And I think that is something that wasn't 6 considered when the videos and the images were sent. 7 Because she stated that she was simply trying to get 8 her message across and wasn't trying to have a 9 dialogue with Ms. Stone to find out what her 10 thoughts were on it or what her stand was on it. 11 She didn't know that information. 12 Q. How would you describe Ms. Carter's -- 13 Ms. Carter was there at the meeting, face-to-face, 14 correct? 15 A. Yes. 16 Q. And her union representative was there with her 17 in attendance? 18 A. Yes. 19 Q. How would you characterize Ms. Carter's 20 demeanor during the fact-finding? 21 A. She was not regretful for doing -- sending 22 videos and the personal messages, she didn't seem 23 apologetic for it at all towards Ms. Stone, and 24 seemed to be justified for what she did. 25 Q. Did she seem remorseful at all?</p>

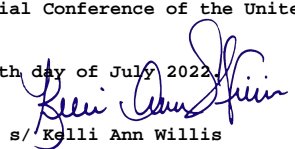
<p style="text-align: right;">Page 1598</p> <p>1 A. No, not at all.</p> <p>2 Q. Did Carter make any claim during the</p> <p>3 fact-finding meeting that she believed Southwest was</p> <p>4 retaliating against her based on union protected</p> <p>5 activities?</p> <p>6 A. Can you say that one more time.</p> <p>7 Q. Did Carter say, in the fact-finding meeting,</p> <p>8 that she believed that Southwest was discriminating</p> <p>9 against her because of her union-related activities?</p> <p>10 A. No, she did not.</p> <p>11 Q. Did Carter claim during the fact-finding</p> <p>12 meeting that Southwest was taking action against her</p> <p>13 based on her religious beliefs?</p> <p>14 A. No.</p> <p>15 Q. Now, you became aware, in connection with the</p> <p>16 investigation, as I understand it, that Ms. Carter</p> <p>17 had a history with the union, correct?</p> <p>18 A. Yes.</p> <p>19 Q. Now, did you know that prior to the</p> <p>20 investigation?</p> <p>21 A. I did not.</p> <p>22 Q. Were you -- there has been some discussion in</p> <p>23 this case about a recall election.</p> <p>24 Do you know what that means?</p> <p>25 A. I know what it means through the investigation.</p>	<p style="text-align: right;">Page 1599</p> <p>1 She explained that.</p> <p>2 Q. Were you not aware of the recall movement prior</p> <p>3 to the investigation?</p> <p>4 A. I had heard rumors of it and knew very little</p> <p>5 about what it involved.</p> <p>6 Q. Did you feel like the investigation was fair?</p> <p>7 A. Absolutely, yes.</p> <p>8 Q. Why do you think that?</p> <p>9 A. I looked at every shred of evidence we had and</p> <p>10 considered everything that was given to me, and</p> <p>11 testimony by Ms. Stone and Ms. Carter, looking at</p> <p>12 the history of what had transpired, just to give</p> <p>13 credit to everything that was given to me before I</p> <p>14 made my decision.</p> <p>15 Q. After the fact-finding, what did you do in</p> <p>16 terms of reaching that decision?</p> <p>17 A. I worked with Denise Gutierrez to learn if she</p> <p>18 made the determination that it was a violation of</p> <p>19 our harassment/sexual harassment policy. I</p> <p>20 discussed with Maureen Emlet to make sure that I was</p> <p>21 within the guidelines of my decision.</p> <p>22 Q. What do you mean "guidelines of your decision"?</p> <p>23 A. Guidelines in labor as far as making this</p> <p>24 decision, and historical, and anything that she</p> <p>25 could share of cases that were similar or anything.</p>
<p style="text-align: right;">Page 1600</p> <p>1 Q. And the "she" in this context is Ms. Emlet?</p> <p>2 A. Yes, correct.</p> <p>3 Q. Okay. Now, obviously, it sounds like you knew,</p> <p>4 before, but during the investigation, you realized</p> <p>5 that the person who was making the complaint was</p> <p>6 president of the Union, Ms. Audrey Stone, correct?</p> <p>7 A. Yes.</p> <p>8 Q. Did that fact have an impact on the</p> <p>9 investigation?</p> <p>10 A. No. She was an employee of Southwest Airlines</p> <p>11 and that is how I treated it.</p> <p>12 Q. Was she, in your view, entitled to the</p> <p>13 protections of the policies of Southwest Airlines</p> <p>14 like any other employee?</p> <p>15 A. Yes, 100 percent.</p> <p>16 Q. I think you've testified to this, but I will</p> <p>17 ask again, just to lay a predicate. Was it your</p> <p>18 decision, Mr. Schneider, to terminate Ms. Carter's</p> <p>19 employment?</p> <p>20 A. Yes, it was.</p> <p>21 Q. And can you tell the jury why you reached that</p> <p>22 decision?</p> <p>23 A. The decision was based on, like I have said a</p> <p>24 few times, the egregiousness of the videos and the</p> <p>25 posts that were made and the personal messages that</p>	<p style="text-align: right;">Page 1601</p> <p>1 were sent depicting a very graphic image, and one</p> <p>2 that I considered affected Ms. Stone in a great way.</p> <p>3 And it seemed that the escalation was there.</p> <p>4 She crossed the line, basically, of just telling</p> <p>5 Ms. Stone how she felt about her being president and</p> <p>6 her duties. And crossed the line as to what we</p> <p>7 would do as a company and how we treat fellow</p> <p>8 employees.</p> <p>9 Southwest has a great culture, and our habits</p> <p>10 have always been to take care of each other and</p> <p>11 treat each other with kindness and caring, and this</p> <p>12 gave none of that. And it affected every part of</p> <p>13 how she conducted herself.</p> <p>14 And I was concerned that it was going to</p> <p>15 possibly escalate. And I -- in some way. But just</p> <p>16 the graphic nature of these videos is the reason why</p> <p>17 she was terminated.</p> <p>18 Q. In the fact-finding, did Ms. Carter raise the</p> <p>19 issue of requesting some type of accommodation?</p> <p>20 A. No, she did not.</p> <p>21 Q. If Southwest were to allow employees to make</p> <p>22 these types of posts and send them to other</p> <p>23 employees, what would be the impact on Southwest</p> <p>24 Airlines in your view?</p> <p>25 A. If we allowed this --</p>

<p style="text-align: right;">Page 1602</p> <p>1 Q. If you allowed employees to send these types of 2 videos to co-employees, what would you say would be 3 the impact? 4 A. As I stated earlier, there is a certain level 5 of disrespect when you send this type of video 6 graphic to another employee. We would lose respect 7 for each other, we would lose the family-type feel 8 that Southwest Airlines has always been a proponent 9 of in how we treat each other. 10 And it would have an adverse affect on how we 11 work together and how we interacted as a group of 12 employees. 13 Q. Now, did you consider any lesser form of 14 discipline, suspension or counseling or something 15 along those lines? 16 A. I considered everything that was available as 17 far as discipline for it. And due to the 18 egregiousness of this, termination was the right 19 choice in this. 20 Q. And did Ms. Carter's opposition to union 21 leadership and her complaints about how the union 22 was spending union member dues have anything to do 23 with your decision? 24 A. No. 25 Q. What are your thoughts about the notion that</p>	<p style="text-align: right;">Page 1603</p> <p>1 her status as a union objector would influence your 2 decision? 3 A. It didn't influence my decision at all. That 4 is a choice between the employee and their union. 5 The company doesn't get involved in that at all, and 6 I did not even consider that in my decision making. 7 Q. And did you have -- did you have a personal 8 preference as to who the leaders of the Union would 9 be? 10 A. I did not. 11 Q. And I asked if you had ever met Stone. 12 Just to make sure we are clear, had you ever 13 interacted with her in connection with your 14 responsibilities as a base manager in either Denver 15 or Phoenix? 16 A. No. 17 Q. And did Ms. Carter being a Christian have 18 anything to do with your decision to terminate her 19 employment? 20 A. No, not at all. 21 Q. What are your religious beliefs, Mr. Schneider? 22 A. I am also Christian. 23 Q. What are your beliefs regarding abortion? 24 MR. PRYOR: Relevance, Your Honor. 25 THE COURT: Overruled. You can answer.</p>
<p style="text-align: right;">Page 1604</p> <p>1 MR. PRYOR: Object on 404 and undue 2 prejudice. 3 THE COURT: Overruled, you can answer. 4 THE WITNESS: I am pro life. 5 BY MR. McKEEBY 6 Q. What does that mean to you? 7 A. It means that I do not agree with abortion and 8 I think that every life is sacred and we should 9 protect it to the greatest extent that we can. 10 Q. How did you communicate the decision to 11 terminate Ms. Carter's employment to her? 12 A. I called the union, TWU rep in Dallas, and I 13 told them that I was ready to render my decision. 14 They called Ms. Carter, and put it on conference 15 call, and I rendered my decision to both Ms. Carter 16 and the union. 17 Q. And did you follow that up with a letter? 18 A. Yes. We are required to send the termination 19 letter the same day as the rendering. 20 MR. McKEEBY: And I think we -- I think 21 that is in evidence as Exhibit 115. Can we pull 22 that up? 23 THE COURT: It is in evidence. We are 24 showing the jury. 25 MR. McKEEBY: Thank you.</p>	<p style="text-align: right;">Page 1605</p> <p>1 BY MR. McKEEBY: 2 Q. And is that the letter that you referenced? 3 A. Yes, it is. 4 Q. And did you write this letter? 5 A. Yes, I did. 6 Q. Did you run it by Ms. Emlet for her review and 7 comment? 8 A. Yes. 9 Q. And did she have some changes? 10 A. They were minor changes. I always like to have 11 them proofread to make sure that everything is 12 correct. 13 Q. In the phone call where you informed Ms. Carter 14 of your decision, did anything stand out about that 15 call? 16 A. No. 17 Q. Is it brief? 18 A. It was routine and very brief. The union keeps 19 it brief also, and they discuss off line anything 20 after. 21 Q. And the letter indicates that you determined 22 that Ms. Carter's conduct violated Southwest 23 policies. 24 What policies did you determine Ms. Carter's 25 conduct violated?</p>

<p style="text-align: right;">Page 1606</p> <p>1 A. The workplace bully and hazing policy and the 2 social media policy. 3 Q. And is that set forth in the document? 4 A. Yes, it is. It is bullet pointed. 5 Q. And it also references that the conduct also 6 could be a violation of Southwest's policy 7 concerning harassment, sexual harassment, 8 discrimination and retaliation? 9 A. Yes. 10 Q. Was that based on what Ms. Gutierrez had 11 advised you during the course of the investigation? 12 A. Yes. 13 Q. So there are a couple of reasons in here. Let 14 me ask you this question: Had Ms. Carter only sent 15 the video images to Ms. Stone, her co-employee, 16 would you have still reached the decision to 17 terminate her employment? 18 A. Yes. That is what I was trying to say the 19 first day of testimony, that -- outside of all of 20 the peripheral questions that I was being asked, 21 that was the main reason why she was terminated. 22 MR. McKEEBY: Okay. I will pass the 23 witness. 24 THE COURT: Okay, Mr. Greenfield. 25</p>	<p style="text-align: right;">Page 1607</p> <p>1 CROSS-EXAMINATION 2 BY MR. GREENFIELD: 3 Q. Hello, Mr. Schneider, welcome back. 4 A. Thank you. 5 Q. How many times did you meet with Ms. Stone in 6 the course of your investigation? 7 A. In the meeting, one time. 8 Q. At any point during that meeting, did Ms. Stone 9 make any derogatory comments about Ms. Carter's 10 religion? 11 A. No. 12 Q. Did you gain any understanding as to 13 Ms. Stone's religion? 14 A. No, I did not. 15 Q. Okay. 16 And Ms. Carter? 17 A. Not in the meeting with Ms. Stone. 18 Q. Okay. 19 Did you ever come to information on whether 20 Ms. Stone was personally pro life or pro choice? 21 MR. PRYOR: Object to relevance, object. 22 To -- 23 THE COURT: I'll allow it. 24 THE WITNESS: In the meeting? I didn't 25 ask that question, specifically. I think she</p>
<p style="text-align: right;">Page 1608</p> <p>1 volunteered at some point in the investigation that 2 she was pro choice. 3 BY MR. GREENFIELD: 4 Q. Okay. 5 MR. GREENFIELD: Can you pull up 6 exhibit 67 for me? And if you can highlight the 7 middle portion for me just where it says "Suzanne." 8 BY MR. GREENFIELD: 9 Q. Have you ever seen this email, Mr. Schneider? 10 A. Yes. 11 Q. Does that refresh your recollection as to 12 Ms. Stone's personal views? 13 MR. PRYOR: Your Honor, there is no need 14 to refresh it. He testified. 15 THE WITNESS: I'm sorry. 16 MR. PRYOR: It is improper use of a 17 document to refresh recollection that doesn't need 18 to be refreshed. 19 THE COURT: So I will sustain that, but 20 this exhibit is already in evidence. So that is not 21 a basis for me to keep it from the jury seeing it, 22 if that makes sense. So I will sustain the 23 objection, but I'm not going to order the exhibit 24 pulled down. 25 MR. GREENFIELD: Nonetheless, you can take</p>	<p style="text-align: right;">Page 1609</p> <p>1 it down. 2 THE WITNESS: Am I allowed to answer or is 3 that -- 4 THE COURT: I sustained the objection, so 5 I think the answer is already in the record from 6 your prior testimony. 7 BY MR. GREENFIELD: 8 Q. Do you remember Ms. Stone discussing any other 9 employees with you during that meeting? 10 A. Could you be a little more -- 11 Q. Sure. 12 MR. GREENFIELD: Can you pull up 13 Exhibit 39, and to page 5. 14 BY MR. GREENFIELD: 15 Q. Does this document refresh your recollection if 16 Ms. Stone spoke to you about a flight attendant 17 named Holly Imomovich? 18 A. Yes, it does. 19 Q. And did Ms. Stone express any concerns to you 20 about Ms. Imomovich? 21 A. Yes, she did. 22 Q. And what were those concerns? 23 A. Pictures that were -- they were flight 24 attendants that had been terminated for specific 25 reasons.</p>

<p style="text-align: right;">Page 1610</p> <p>1 Q. Okay. Are you aware who, if anyone, turned 2 Ms. Imomovich into the company? 3 A. I am not. 4 MR. PRYOR: Sorry, Your Honor, could I 5 hear the question again? 6 THE COURT: Can you restate the question? 7 Mr. Greenfield, can you restate that question? 8 MR. McKEEBY: Yes, Your Honor. 9 THE COURT: He didn't hear it. 10 MR. GREENFIELD: Yes, your Honor. 11 BY MR. GREENFIELD: 12 Q. Do you know who, if anyone, turned 13 Ms. Imomovich in to the company? 14 MR. PRYOR: Okay. Your Honor, I think I'm 15 going to have a sidebar. Where is it at? 16 THE COURT: Sidebar. 17 (Thereupon, the following proceedings were 18 had at sidebar:) 19 THE COURT: Okay. Objection? 20 MR. GILLIAM: Yeah. Your Honor this is 21 actually foreclosed by Southwest's limine, that they 22 want to talk about these other disciplinary cases, 23 and we haven't been able to respond to them because 24 of Southwest's limine. 25 So they want to go into detail about Holly</p>	<p style="text-align: right;">Page 1611</p> <p>1 Imomovich's discipline, they want to go into detail 2 of Robert Hibbit's discipline, but we have not had 3 the opportunity to present any evidence to rebut 4 what they are going to say because we have been 5 limined out of it. 6 THE COURT: So I understand that. 7 But the question at hand was who turned 8 them in to Southwest, which I view as different than 9 what did Southwest do to them. So, yes, my guard is 10 up on this, but I don't think they have gotten to 11 the limine point of it yet. 12 MR. GREENFIELD: I'll be very careful with 13 it, your Honor. 14 THE COURT: Do I need to -- because he 15 said one reference earlier, they did talk about what 16 Southwest did to somebody. Can I come out of this 17 and say, hey, whenever my instruction, we are not 18 supposed to tell what Southwest did to anybody, if 19 you need to turn someone in, that's -- that is -- 20 are you okay with me saying that so the witness 21 hears it from me, and then we will proceed? 22 MR. GILLIAM: Yes, your Honor. 23 MR. PRYOR: Your Honor, it this a fair use 24 of conferring? I'm just wondering about our time. 25 THE COURT: Yes. So I will take this one</p>
<p style="text-align: right;">Page 1612</p> <p>1 on me because we got close, but not over the line, 2 so this one is on me. 3 MR. PRYOR: Thank you. 4 (Thereupon, the sidebar was concluded and 5 the following proceedings were held in open 6 court:) 7 THE COURT: Okay. So what I will do is, I 8 will let you, in just a second, Mr. Greenfield, ask 9 your last question. But for the jury's reminder -- 10 and, Mr. Schneider, I don't know if I've said this 11 since you have been in the room -- I have carved out 12 any part of this case which involves how Southwest 13 disciplined an employee. That is not relevant to 14 the claims against Southwest. 15 If someone turned in an employee to 16 Southwest, that is not Southwest discipline yet. 17 And that is relevant to this case. So the question 18 that he asked you, I think is relevant. And it is 19 one you can answer. 20 So can you ask this question again, but 21 don't get into any Southwest discipline as a result 22 of his question. You can ask again, Ms. Greenfield. 23 MR. GREENFIELD: Sure, I will be as 24 precise as I can. 25</p>	<p style="text-align: right;">Page 1613</p> <p>1 BY MR. GREENFIELD: 2 Q. And I think we heard your answer. Are you 3 aware of who, if anyone, turned in Ms. Imomovich to 4 the company? 5 THE COURT: Object, lack of foundation. I 6 will allow him to answer if he has personal 7 knowledge. 8 THE WITNESS: I don't know. 9 BY MR. GREENFIELD: 10 Q. Okay. And if you go down to page 6, the next 11 page, do you know if Ms. Stone ever turned in 12 Ms. Jeanna Jackson to the company? 13 A. I don't recall that. 14 Q. Based on these notes, what do you recall of 15 your conversation between you and Ms. Stone 16 regarding Ms. Jeanna Jackson? 17 A. Yes, she did turn in Jeanna Jackson. 18 Q. Based on this document, does it refresh your 19 recollection as to the reason why that may have 20 occurred? 21 A. Because it depicted a screen shot of a picture 22 of a bullet in her head. 23 Q. Now, you are the Denver-based manager, correct? 24 A. Yes. 25 Q. And I would imagine that your purview generally</p>

<p style="text-align: right;">Page 1614</p> <p>1 is limited to employees who are based in Denver?</p> <p>2 A. Yes.</p> <p>3 Q. I have a few people that I want to ask you</p> <p>4 about that you may not know about because they are</p> <p>5 at other bases, but just in case.</p> <p>6 MR. PRYOR: Your Honor, for optional</p> <p>7 completeness regarding his refreshed recollection,</p> <p>8 can we point out --</p> <p>9 THE COURT: Sidebar. Hold on. Sidebar.</p> <p>10 MR. PRYOR: That is all.</p> <p>11 THE COURT: I didn't hear what you were</p> <p>12 saying. You can only speak in code. And I'm not</p> <p>13 treating you --</p> <p>14 MR. PRYOR: For optimal completeness, that</p> <p>15 he point out the rest of -- that the allegation was</p> <p>16 false.</p> <p>17 THE COURT: Okay. I will sustain that. I</p> <p>18 will sustain that. Can you ask him about the rest</p> <p>19 of it?</p> <p>20 MR. GREENFIELD: I was trying to be</p> <p>21 careful to not, but --</p> <p>22 BY MR. GREENFIELD:</p> <p>23 Q. Your understanding is that the complaint was</p> <p>24 related to a bullet, a picture of a bullet in</p> <p>25 Ms. Stone's head, is that correct?</p>	<p style="text-align: right;">Page 1615</p> <p>1 A. Yes, that is correct.</p> <p>2 Q. And to be fair to everyone here, my</p> <p>3 understanding, based on this document, is it your</p> <p>4 understanding that that post was ultimate -- was a</p> <p>5 fabrication?</p> <p>6 A. It was determined about that, yes.</p> <p>7 Q. And that was determined after an investigation,</p> <p>8 correct?</p> <p>9 A. Yes.</p> <p>10 Q. But nothing wrong with the complaint in and of</p> <p>11 itself?</p> <p>12 A. No. Not at all.</p> <p>13 Q. Do you know a Michelle Foley?</p> <p>14 A. I have heard the name.</p> <p>15 Q. Do you know if she's still employed by the</p> <p>16 company?</p> <p>17 A. I do not.</p> <p>18 Q. Do you know a Sherry Parnell Vincent?</p> <p>19 A. No.</p> <p>20 Q. Do you know a Kim Hensley?</p> <p>21 A. Yes.</p> <p>22 Q. Do you know if Kim -- I don't know if it's a</p> <p>23 man or -- if Kim is still employed by the company?</p> <p>24 A. Yes.</p> <p>25 Q. She is?</p>
<p style="text-align: right;">Page 1616</p> <p>1 A. Yes.</p> <p>2 MR. McKEEBY: Pass the witness, your</p> <p>3 Honor.</p> <p>4 THE COURT: Okay. It is 5:01, so I'm</p> <p>5 going to say we should break here for the day. Same</p> <p>6 three instructions as always: You can only talk to</p> <p>7 your fellow jurors and court personnel, just not</p> <p>8 about this case; can't talk to anyone else; and</p> <p>9 please don't do any research about the case. We</p> <p>10 will see you tomorrow morning at 8:45 to start on</p> <p>11 the record at 9:00. All rise for the jury.</p> <p>12 (The jurors exited the courtroom.)</p> <p>13 THE COURT: Okay. We seem to keep holding</p> <p>14 you as an overnight witness, Mr. Schneider. I'm</p> <p>15 sorry for that. But with that, I still have to ask</p> <p>16 you to not talk to anyone about the case since you</p> <p>17 are still a witness.</p> <p>18 But you are free to leave the courtroom.</p> <p>19 So you have your freedom at least; so there's that.</p> <p>20 We will stick around after he's out of the</p> <p>21 courtroom so I can ask -- see if y'all have got any</p> <p>22 other questions we should address tonight.</p> <p>23 (The witness exited the courtroom.)</p> <p>24 THE COURT: Okay. So what-all do we need</p> <p>25 to cover now?</p>	<p style="text-align: right;">Page 1617</p> <p>1 MR. McKEEBY: I need to suggest that I</p> <p>2 will need some but probably not all of the extra</p> <p>3 time. I don't know exactly how much I will need,</p> <p>4 but I will need more than -- at least, based on our</p> <p>5 calculations of how far I have gone, I will need</p> <p>6 some of it.</p> <p>7 THE COURT: Understood. That makes sense.</p> <p>8 And I held it in reserve, knowing that y'all might,</p> <p>9 so that is fine.</p> <p>10 I guess tonight at 6:00, we need to hear</p> <p>11 who else you plan to get to tomorrow that you didn't</p> <p>12 already designate for today. You had Gutierrez on</p> <p>13 the list today. So we will hear any other witnesses</p> <p>14 tomorrow.</p> <p>15 And then we need to hear from you for who</p> <p>16 you plan to get to tomorrow, Ms. Greenfield.</p> <p>17 MR. GREENFIELD: Yes, your Honor.</p> <p>18 THE COURT: So we will hear that at 6. We</p> <p>19 will hear their objections to your exhibits at 8.</p> <p>20 And then I will say, I guess, you know, we might</p> <p>21 rest, rest, close, close, close tomorrow. And if we</p> <p>22 do, that we should probably stick around whenever</p> <p>23 that is and do the formal charge conference. And we</p> <p>24 can print the behemoth charge overnight because it</p> <p>25 takes a while, right, and then bring the jury back</p>

<p style="text-align: right;">Page 1618</p> <p>1 on Wednesday to have a reading of the charge. And</p> <p>2 then closing argument, closing argument, closing</p> <p>3 argument. Does that make sense?</p> <p>4 I just don't know -- you know, I don't</p> <p>5 know if we are going to finish tomorrow at 4:00,</p> <p>6 tomorrow at 3, tomorrow at 5 or 6. We will see.</p> <p>7 But the later we finish, the harder it will be to</p> <p>8 have y'all stick around and do a formal charge</p> <p>9 conference. So we will just play it by ear.</p> <p>10 MR. McKEEBY: Point of clarification, can</p> <p>11 we assume that closing arguments will be on</p> <p>12 Wednesday at some point?</p> <p>13 THE COURT: Yes. I don't think there is</p> <p>14 any possibility for us to have closing argument</p> <p>15 tomorrow, given that we still have got to do a</p> <p>16 formal charge conference. I will try to get y'all</p> <p>17 my next round of the jury charge by tomorrow at noon</p> <p>18 at the latest. We are working on it right now. But</p> <p>19 I can promise it by noon. I don't know if I can get</p> <p>20 it to you earlier. I will if I can.</p> <p>21 But yeah, so we may roll straight in from</p> <p>22 the close of evidence to a formal charge conference</p> <p>23 tomorrow. That is ideal.</p> <p>24 Other questions?</p> <p>25 Judge Kinkeade has graciously agreed to be</p>	<p style="text-align: right;">Page 1619</p> <p>1 my stand-in, and he's older, wiser than I am, and</p> <p>2 also funnier than I am. So he will be the stand-in</p> <p>3 judge, so he's on duty for Thursday and Friday.</p> <p>4 Now, he may -- because he doesn't live too</p> <p>5 far from the courthouse, sort of be on standby,</p> <p>6 like I let y'all -- usually, when the jury goes into</p> <p>7 deliberations, I usually give you freedom to leave</p> <p>8 the courthouse so as long as you are having somebody</p> <p>9 15 minutes away or so. He might do the same, so we</p> <p>10 will see. It is up to him at that point.</p> <p>11 But I will still be on the phone and able</p> <p>12 to talk through with him any jury notes or any other</p> <p>13 issues that may come up that he's wondering about.</p> <p>14 So prep for Judge Kinkeade to be your</p> <p>15 judge. You can file your motion to reconsider every</p> <p>16 ruling that Judge Scholer and I have ever ruled on</p> <p>17 as soon as he takes the case over.</p> <p>18 Anything else?</p> <p>19 All right. Well, with that, we will see</p> <p>20 y'all tomorrow at 8:45 -- 8:30. Sorry. And then we</p> <p>21 will just see those filings tonight by email. Not</p> <p>22 filings, emails, on what we are going to take up</p> <p>23 tomorrow, what objections we have.</p> <p>24 Thank y'all. We'll see you in the</p> <p>25 morning.</p>
<p style="text-align: right;">Page 1620</p> <p>1 Court is in recess.</p> <p>2 THE COURT SECURITY OFFICER: All rise.</p> <p>3 (Proceedings concluded at 5:06 p.m.)</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 1621</p> <p>1 C E R T I F I C A T E</p> <p>2</p> <p>3 I, Kelli Ann Willis, RPR, CRR, CSR</p> <p>4 certify that the foregoing is a transcript from the</p> <p>5 record of the proceedings in the foregoing entitled</p> <p>6 matter.</p> <p>7 I further certify that the transcript</p> <p>8 fees format comply with those prescribed by the</p> <p>9 Court and the Judicial Conference of the United</p> <p>10 States.</p> <p>11 This 12th day of July 2022,</p> <p>12 </p> <p>13 s/ Kelli Ann Willis</p> <p>14 Official Court Reporters</p> <p>15 Northern District of Texas</p> <p>16 Dallas Division</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF TEXAS

3 CASE NO. 3:17-cv-02278-X
4

5 -----x
6 CHARLENE CARTER,

7 Plaintiff,

8 v.

9 SOUTHWEST AIRLINES CO. and
10 TRANSPORT WORKERS OF AMERICA,
LOCAL 566,

11 Defendants.
12

13 -----x
14
15
16 TRANSCRIPT OF THE TRIAL
17 BEFORE THE HONORABLE BRANTLEY STARR
18 UNITED STATES DISTRICT JUDGE
19

20 V O L U M E 6
21

22 Dallas, Texas

23 July 12, 2022

24 8:37 a.m.
25

<p style="text-align: right;">Page 1623</p> <p>1 A P P E A R A N C E S:</p> <p>2</p> <p>3 FOR THE PLAINTIFFS:</p> <p>4 NATIONAL RIGHT TO WORK FOUNDATION INC.</p> <p>5 8001 Braddock Street</p> <p>6 Suite 600</p> <p>7 Springfield, Virginia 22160</p> <p>8 BY: MATTHEW B. GILLIAM, ESQ.</p> <p>9 mgb@nrtw.org</p> <p>10</p> <p>11 PRYOR & BRUCE</p> <p>12 302 North San Jacinto</p> <p>13 Rockwall, Texas 75087</p> <p>14 BY: BOBBY G. PRYOR, ESQ.</p> <p>15 MATTHEW D. HILL, ESQ.</p> <p>16 bpryor@pryorandbruce.com</p> <p>17 mhill@pryorandbruce.com</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 1624</p> <p>1 For the Defendant Union 566:</p> <p>2</p> <p>3 CLOUTMAN & GREENFIELD, PLLC</p> <p>4 3301 Elm Street</p> <p>5 Dallas, TX 75226</p> <p>6 BY: ADAM S. GREENFIELD, ESQ.</p> <p>7 EDWARD B. CLOUTMAN, III, ESQ.</p> <p>8 agreenfield@candglegal.com</p> <p>9 crawfish11@prodigy.net</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 1625</p> <p>1 COURT REPORTER: MS. KELLI ANN WILLIS, RPR, CRR, CSR</p> <p>2 United States Court Reporter</p> <p>3 1100 Commerce Street</p> <p>4 Room 1528</p> <p>5 Dallas, Texas 75242</p> <p>6 livenotecrr@gmail.com</p> <p>7</p> <p>8 Proceedings reported by mechanical</p> <p>9 stenography and transcript produced by computer.</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 1626</p> <p>1 I N D E X</p> <p>2 Formal Charge Conference 1857</p> <p>3</p> <p>4 W I T N E S S E S</p> <p>5 ED SCHNEIDER</p> <p>6 Cross-Examination by Mr. Pryor 1654</p> <p>7</p> <p>8 MEGGAN JONES</p> <p>9 Direct Examination by Mr. McKeeby 1674</p> <p>10 Cross-Examination by Mr. Greenfield 1683</p> <p>11</p> <p>12 DENISE GUTTIEREZ</p> <p>13 Direct Examination by Mr. Morris 1686</p> <p>14 Cross-Examination by Mr. Greenfield 1693</p> <p>15</p> <p>16 MIKE SIMS</p> <p>17 Direct Examination by Mr. McKeeby 1695</p> <p>18 Voir Dire Examination by Mr. McKeeby 1740</p> <p>19 Cross-Examination by Mr. Greenfield 1743</p> <p>20</p> <p>21 CHARLENE CARTER</p> <p>22 Direct Examination by Mr. Greenfield 1760</p> <p>23 Cross-Examination by Mr. Pryor 1832</p> <p>24</p> <p>25</p>

<p style="text-align: right;">Page 1627</p> <p>1</p> <p>2 EXHIBITS</p> <p>3</p> <p>4 Trial Exhibit 10 1658</p> <p>5 Trial Exhibit 36 1671</p> <p>6 Trial Exhibit 119 1709</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 1628</p> <p>1 - PROCEEDINGS -</p> <p>2 -O-</p> <p>3 THE COURT SECURITY OFFICER: All rise.</p> <p>4 THE COURT: You can have a seat.</p> <p>5 Thank you.</p> <p>6 Okay. So we are on -- what day is it?</p> <p>7 Does anyone know what day of trial it is? Are we on</p> <p>8 6? It might be Day 6 trial.</p> <p>9 So let's go ahead and do appearances,</p> <p>10 first for Carter.</p> <p>11 MR. GILLIAM: For Carter, Matthew Gilliam,</p> <p>12 Matt Hill and Bobby Pryor.</p> <p>13 THE COURT: Thank you.</p> <p>14 And Southwest.</p> <p>15 MR. McKEEBY: For Southwest, Paulo McKeeby</p> <p>16 and Brian Morris.</p> <p>17 THE COURT: Okay. Thank you.</p> <p>18 And for the Union.</p> <p>19 MR. GREENFIELD: On behalf of the Union,</p> <p>20 Adam Greenfield and Edward Cloutman III, along with</p> <p>21 our corporate rep, Mike Massoni.</p> <p>22 THE COURT: Thank you.</p> <p>23 First I want to congratulate all of you</p> <p>24 for clearing security downstairs. I heard it was an</p> <p>25 absolute cluster today. So we will see when our</p>
<p style="text-align: right;">Page 1629</p> <p>1 jury gets here. We could probably take bets if</p> <p>2 y'all want to on when they will clear security. The</p> <p>3 line is something to behold.</p> <p>4 So thank y'all for being here. That is</p> <p>5 impressive.</p> <p>6 I guess I'll ask y'all what you wish to</p> <p>7 talk about. The two things on my mind are exhibits.</p> <p>8 I know we had timely designations and objections</p> <p>9 last night I want to cover.</p> <p>10 And then what I wanted to do is see if</p> <p>11 there are any exhibit objections that we didn't get</p> <p>12 to yesterday morning because we were talking about</p> <p>13 the jury charge.</p> <p>14 If we've got extra time, we can talk about</p> <p>15 anything jury charge that we didn't get to yesterday</p> <p>16 that's on y'all's minds. I know we covered a lot,</p> <p>17 but we didn't cover everything that y'all put in</p> <p>18 writing to me. So if anyone wants to take another</p> <p>19 crack at me on something jury charge-wise, we should</p> <p>20 cover that after exhibits.</p> <p>21 And I just plan to do rounds like we</p> <p>22 finished off doing yesterday where I'll ask Carter,</p> <p>23 Southwest, Union, what's next that they want to talk</p> <p>24 about.</p> <p>25 What else should we cover other than</p>	<p style="text-align: right;">Page 1630</p> <p>1 exhibits and any lingering charge thoughts from</p> <p>2 yesterday morning's session?</p> <p>3 MR. McKEEBY: I had a housekeeping matter.</p> <p>4 I thought that Exhibit 36 was admitted and</p> <p>5 published, but I see from the list that that may not</p> <p>6 be the case. I don't think there is any objection</p> <p>7 to me just publishing that in front of the jury. I</p> <p>8 thought I had done so, but I guess maybe not.</p> <p>9 THE COURT: Well, that could be on my end,</p> <p>10 like I didn't publish one of yours yesterday. So it</p> <p>11 could be my fault on 36.</p> <p>12 So should we go ahead and do that first</p> <p>13 thing when the jury gets in? Do you want to show 36</p> <p>14 to them?</p> <p>15 MR. McKEEBY: That's fine.</p> <p>16 THE COURT: Okay. I will make a note of</p> <p>17 that.</p> <p>18 I know you had prepared the redactions.</p> <p>19 Only -- for the Dropbox last night, I</p> <p>20 could only upload 21-Q, or download 21-Q. So it may</p> <p>21 have been user error on my end.</p> <p>22 MR. HILL: Or user error my part. I send</p> <p>23 Kevin a second link that had the full set.</p> <p>24 THE COURT: Okay. I will make sure I</p> <p>25 download that. I just want to make sure that I have</p>

<p style="text-align: right;">Page 1631</p> <p>1 a complete copy of everything we need before we send 2 the jury back. Agreed that will probably be 3 tomorrow, not today, but I'm just trying to make 4 sure, as we land the plane, that we have everything 5 we need. 6 We have an electronic copy of 15A. 7 Remember that was the one where Stone marked with 8 yellow highlighter? It's 57 megabytes. So if 9 anyone wants it, we can get it to you, but it may 10 not go in your email. 11 What we will do is when we charge the jury 12 and send them back, we are going to have the final 13 list of exhibits that I give y'all that will cut off 14 everything we didn't introduce, and then we will 15 have the thumb drive and y'all can look and make 16 sure the right exhibits are on there. 17 So you can copy the thumb drive, make a 18 copy of the exhibits for yourself if you want to, 19 and that -- that's fine by me. 20 MR. PRYOR: Your Honor, in terms of what 21 you're sending, you're sending back a hard copy as 22 well? 23 THE COURT: So we have the hard copy 24 available if they ask, but we're sending back the 25 e-copy of every exhibit. The only hard copy they</p>	<p style="text-align: right;">Page 1632</p> <p>1 will have of anything is each juror will have a hard 2 copy of the jury charge that includes the questions. 3 There is going to be the master copy that 4 the foreperson will keep that's the control copy, 5 and then there is one hard copy of the exhibit list. 6 All of the exhibits themselves are actually 7 electronic. 8 We still have that hard copy exhibit of 9 15A. If they ask for it at all, we can give it to 10 them. 11 MR. PRYOR: We would request that the hard 12 copies go back in bound index notebooks. 13 I understand flash drives and all of that, 14 but -- I think it's a little more user-friendly for 15 them to have the actual hard copy exhibits. 16 We will put them in a binder if the Court 17 doesn't object. 18 THE COURT: So any other thoughts from the 19 other side? 20 I don't have a problem with it. This is 21 sort of a relic of COVID. We had shifted to all 22 electronic back when people thought paper is what 23 transmits COVID, right? It got easier and cheaper, 24 and so people liked it. 25 But if you've got a hard copy and the</p>
<p style="text-align: right;">Page 1633</p> <p>1 other side can see it and they are fine with the 2 actual substance of it, fine by us. 15A is our only 3 hard copy and we can make it available. 4 MR. PRYOR: And I'm saying we do. I have 5 them in front of me and I've got an extra set behind 6 me. I think we can put one together. If I'm wrong, 7 I'm sure -- 8 THE COURT: Yeah. The only thing I try 9 not to send back are guns, drugs, cash, right? I 10 learned that lesson from a mentor judge who tried 11 El Chapo once. Yes. Wise lessons. Don't send back 12 the guns, drugs, or cash. But I don't think we have 13 any of that in this case. I think we are good. 14 So I have no problem with that. If you've 15 got a control copy and they approve of it, then we 16 will send back a laptop too. But we can send back 17 the binders and they will probably look at those 18 first. 19 Other questions, housekeeping-wise? 20 Okay. So let's jump into exhibits then. 21 I think I have the first objection we 22 should talk about as being Southwest designation of 23 number 50. 24 MR. McKEEBY: I can streamline this. 25 We will withdraw that one that's admitted</p>	<p style="text-align: right;">Page 1634</p> <p>1 through other exhibits which I can use instead of 2 that one. 3 MR. PRYOR: Exhibit number? 4 THE COURT: Understood. That makes sense. 5 So 50 I'm going to note in my notes is 6 withdrawn. 7 I have 119 as Southwest designation that 8 Carter objects to, and that's a Step 2 9 documentation. 10 MR. GILLIAM: That's right, your Honor. 11 THE COURT: That was Mr. Gilliam? 12 MR. GILLIAM: Yes. I'm trying to reach 13 out here in the aisle. 14 THE COURT: The problem is when you move 15 to where I can see you, then the microphone can't 16 grab you. 17 MR. GILLIAM: Let me try this one. 18 THE COURT: I've got wheels, I can move. 19 Okay. So anything we want to talk about 20 on Step 2? I know we've generally covered Step 2, 21 but anything we want to talk about on this document? 22 MR. GILLIAM: We have. We just wanted to 23 make our objection. 24 THE COURT: I appreciate that. 25 So I will stick with my prior rulings. I</p>

<p style="text-align: right;">Page 1635</p> <p>1 think Step 2 is admissible for those limited 2 purposes of mitigation, fair representation. 3 So I will acknowledge your objection. I 4 will overrule it on the record here and say that at 5 the point in time that it gets offered, I will just 6 plan on overruling morning objections and letting it 7 come in. 8 So those are the two Southwest documents 9 that there were objections to. 10 In the Union documents, the first one I 11 have an objection to is Number 3. This is the EEOC 12 charge as it pertains to the Union. I know the EEOC 13 charge came in yesterday, but the one for Southwest. 14 MR. GREENFIELD: Your Honor, we can move 15 on. I'm not going to dive into it. 16 THE COURT: Okay. That's fine by me. I 17 would feel compelled to reach the same conclusion, 18 but it would take time on the record. So if you 19 don't want to spend your time on that, that's fine 20 by me. 21 MR. GREENFIELD: I don't. 22 THE COURT: I have 119 as your next 23 exhibit, Mr. Greenfield, that Carter objected to, 24 and this is an email from Burdine to Sims. 25 MR. GREENFIELD: Which numbers, your</p>	<p style="text-align: right;">Page 1636</p> <p>1 Honor? I couldn't hear you. 2 THE COURT: This is 119. This is another 3 Step 2 document. 4 MR. GREENFIELD: I think it's the same one 5 we just talked about. It's the Step 2 hearing. 6 THE COURT: That's true. So I have 7 already ruled on it. Thank you for noting that. 8 120 is the next one I have for you, 9 Mr. Greenfield, that Carter objected to. And the 10 objection is relevance grounds. 11 I get your objection, but I didn't see the 12 objection back in the status report for the pretrial 13 proceedings. So I know I have been a jerk to anyone 14 who is raising new ones. But double-check me and 15 make sure I'm right. 16 MR. GILLIAM: You are correct. The 17 objection was not raised in the status report. 18 THE COURT: But that's not the end of it 19 because if it is now irrelevant because of something 20 I have done in trial, then I can't hold you to a 21 pretrial objection you didn't raise. If that makes 22 sense. 23 So I guess the question is, is it 24 irrelevant and was when you filed the status report 25 with the objections pretrial, or is it irrelevant</p>
<p style="text-align: right;">Page 1637</p> <p>1 now because of something I've done in trial, is what 2 I'm trying to figure out. 3 MR. GILLIAM: Well, if I'm being full 4 candid, I think it was irrelevant all along. So -- 5 THE COURT: I get that. And that was my 6 read, too, but I never want to assume that. I 7 always want to talk through and ask it we made so 8 many rulings in trial that I have done something 9 that changed the scope of it. 10 So I will continue to be the jerk that 11 overrules that objection. I'm overruling it, so if 12 I'm wrong on that, you can still raise the merits of 13 appeal. 14 136 is what I have next as a Union exhibit 15 that Carter objected to. This is a text to Lyn 16 Montgomery. Relevance is the main objection, and 17 then prejudice is next, and then 404(b) is next. 18 So happy to hear any argument you have, 19 Mr. Gilliam, and I will ask Mr. Greenfield for his 20 response. 21 MR. GREENFIELD: Your Honor, we can move 22 on. I don't intend to spend any time on that 23 exhibit today. 24 THE COURT: Okay. Well, that simplifies 25 things. So I will just note that it is withdrawn.</p>	<p style="text-align: right;">Page 1638</p> <p>1 I have the last one as being 137, and that 2 is emails on Step 2. 3 So I guess let me ask, if you are planning 4 on using that, is there anything unique about this 5 Step 2 document that changes how my analysis would 6 run on it? Mr. Gilliam. 7 MR. GILLIAM: No, your Honor. It's also 8 just another Step 2 proceeding document. 9 THE COURT: Understood. 10 So I will be consistent and I will 11 overrule that objection here on the record, and that 12 will streamline it if it gets offered into evidence. 13 So those are the only ones I had for this 14 morning. Am I missing something from last night's 15 designations that we need to cover this morning? 16 MR. GILLIAM: I don't think so. 17 THE COURT: And I haven't done a cross 18 reference of what was designated two nights ago 19 compared to what we covered yesterday. 20 So I guess my question is, is there 21 something that was designated that has not yet come 22 into evidence that was objected to that could come 23 into evidence that anyone wants to tell me? 24 This is digging deep. It's not even two 25 nights ago because we had a weekend in there. So I</p>

<p style="text-align: right;">Page 1639</p> <p>1 don't know what this would be, like Thursday night 2 designations for Friday documents. 3 So is there any other exhibit y'all want 4 to talk about? Let me just simplify my phraseology. 5 Any other exhibit objection y'all want to talk about 6 in a pretrial posture? 7 MR. McKEEBY: No. 8 THE COURT: No for Southwest. 9 Anything for the Union or for Carter that 10 y'all can think of that we should talk about? 11 MR. GREENFIELD: Not that I can think of 12 at this time, your Honor. 13 THE COURT: Okay. Got it. 14 Then let me shift gears back to the 15 informal charge conference we had yesterday. We 16 covered a lot of ground but not everything. 17 So let me just ask, and I will go in 18 order. Carter, is there anything we didn't talk 19 about yesterday that you want to talk about? 20 I know my goal is still to turn another 21 draft of the charge back to you by noon, but we are 22 not at noon yet. I'm still working through it. 23 So is there anything else you want to 24 bring up that we didn't cover yesterday that you 25 think we should talk about?</p>	<p style="text-align: right;">Page 1640</p> <p>1 MR. GILLIAM: Well, it wouldn't be 2 anything new that we didn't address already in our 3 brief. So I don't know if you want to revisit 4 something that's discussed in the brief that maybe 5 we didn't specifically talk about yesterday. 6 THE COURT: I can thumb through my 7 documents, but while I do, let me pose the same 8 question to Southwest next, Mr. Morris, and then 9 you, Mr. Greenfield. Is there anything on your mind 10 that we didn't talk about yesterday that you wanted 11 to get to and we just ran out of time? 12 MR. GREENFIELD: No, I think we covered it 13 all, your Honor. 14 MR. MORRIS: I have a couple of things. 15 THE COURT: Let's do it. We've got the 16 time, and we may have another hour with the security 17 line downstairs. So you got me here. May as well 18 use it. 19 So what have you got, Mr. Morris? 20 MR. MORRIS: We raised in our brief this 21 notion that the request for an accommodation or the 22 knowledge of the need for an accommodation does not 23 arise until after the employee violates whatever 24 work rule is at issue, then they are not entitled to 25 an accommodation.</p>
<p style="text-align: right;">Page 1641</p> <p>1 We cite some cases in that regard. 2 And we think the instruction should 3 reflect that and indicate that if Ms. Carter 4 violated a policy before the knowledge of her need 5 for an accommodation was apparent, then she's not 6 entitled to one. 7 THE COURT: All right. And I think y'all 8 were arguing Abercrombie and -- 9 MR. GILLIAM: I'll address that. Not only 10 Abercrombie, but the main case they cite for that 11 proposition is a Fifth Circuit case called Konop 12 back. And let me tell you why that case is totally 13 distinguishable here. 14 In Konop, you had a nurse who worked in a 15 nursing home who refused to pray the rosary with one 16 of the clients, and the company, the nursing home 17 company, fired her. 18 There, the Fifth Circuit held that the 19 nursing home had no -- no notion or no idea that she 20 needed an accommodation because she didn't -- her 21 need for an accommodation didn't become apparent 22 until after she was fired. 23 THE COURT: She didn't say "I'm a 24 Jehovah's Witness" before her termination. 25 MR. GILLIAM: Right. But here the</p>	<p style="text-align: right;">Page 1642</p> <p>1 evidence clearly establishes in the fact-finding 2 meeting that Southwest -- that Southwest knew of 3 Carter's need for an accommodation, yet continued to 4 make its termination decision and avoid its burden 5 of affirmative duty to accommodate. 6 So they -- they create this conflicting 7 requirement by firing her under its social media 8 policies for her religious beliefs and practices. 9 So there, their logic is flawed that she 10 has to give them notice of her need for an 11 accommodation before she violates the policy. 12 Well, they determined that she violates 13 the policy after her fact-finding and they fire her 14 for it, so the logic of that position is totally 15 faulty. 16 And I guess I would also just reiterate 17 our position that there should be no -- nothing in 18 the jury charge about her having to request an 19 accommodation. It is just really an undisputed fact 20 here that Southwest knew before they fired her that 21 she needed an accommodation. 22 Ed Schneider has testified to that 23 repeatedly and it's in the fact-finding notes. I 24 think Exhibit 98. And in his synopsis, Exhibit 107. 25 THE COURT: Any response, Mr. Morris, on</p>

<p style="text-align: right;">Page 1643</p> <p>1 Konop and the employer not having a factual basis 2 for what the accommodation might be? 3 MR. MORRIS: Sure. So first, you know, we 4 cite a Fourth Circuit case that has been recited -- 5 I can send you ten cases that have recited this 6 proposition that -- I'm not saying that Ms. Carter 7 necessarily, post Abercrombie, had to make a 8 specific request, but at very least, the employer's 9 knowledge of the need for an accommodation is still 10 relevant, I think even post Abercrombie. 11 Konop cites a Fourth Circuit case with 12 approval, and that's why we point to it. We cite 13 some other district court cases, and I can give you 14 several more of them. 15 But I would say the import of this rule, 16 just to give you a practical example, an employee 17 may in some circumstance be entitled to an 18 accommodation to, say, travel to Mecca as part of 19 their religious practice. But if they just 20 disappear for a month and then the employer says, 21 Hey, you've been gone, we are going to discipline 22 you, and they say, Whoa, Whoa, whoa, that was a 23 religious thing I was doing, I'm entitled to an 24 accommodation, the fact that the employer didn't 25 know and there was no request until after the policy</p>	<p style="text-align: right;">Page 1644</p> <p>1 was violated means there is no accommodation 2 required for that prior violation. 3 So that's why I think in this case -- and 4 we cite cases to this effect -- our argument is 5 Ms. Carter violated the policies before her 6 Christianity had been raised to anybody. 7 THE COURT: So what about if the knowledge 8 comes in after the policies were violated but before 9 the termination occurs? I think that's the argument 10 they are making is in the fact-finding meeting, then 11 they were then on notice that her religion was in 12 play with the sending of the messages. 13 So what about that timeline? Because from 14 your hypo, you know, it was a little bit different 15 on the timetable. Here I'm wondering, what if that 16 knowledge comes into play after the policies were 17 broken but before the firing occurs. Does that 18 change the outcome? 19 MR. MORRIS: I don't think so. I think 20 Chalmers counsels that once the policy is violated, 21 you are entitled to enforce that policy. 22 Now, subsequent to the employee raising 23 their religious issue or it becoming known, then 24 maybe there is leniency subsequently. And I can 25 send additional cases if that would be helpful.</p>
<p style="text-align: right;">Page 1645</p> <p>1 But no, I don't think the fact that the 2 response to the pre-knowledge violation is limited 3 by the fact that after the violation, they say, Hey, 4 I have been -- I have a religious reason. 5 And I think the example I gave is 6 illustrative. If an employee leaves and the 7 employer hasn't yet decided what to do and they just 8 disappear, you don't get to then come and say, Whoa, 9 whoa, whoa, it was for a religious reason I just 10 didn't show up for work for a week. 11 THE COURT: Understood. 12 You said you had two things, and that was 13 thing one. Is there a thing two? 14 MR. GREENFIELD: Your Honor, may I just 15 touch on that briefly? 16 I think an important thing to consider in 17 that is sufficiency of notice, and perhaps a jury 18 question that touched on perhaps whether Southwest 19 or the Union was absolutely put on sufficient notice 20 to provide that accommodation. 21 I think that might potentially cure any 22 issues that we are dealing with on this on the 23 Union's behalf. I'm not speaking for Southwest, of 24 course. 25 MR. GILLIAM: Your Honor, may I address</p>	<p style="text-align: right;">Page 1646</p> <p>1 Mr. Greenfield? 2 THE COURT: You may. 3 MR. GILLIAM: The notice is apparent on 4 the Facebook -- in the Facebook videos and the 5 messages and posts themselves that this is a 6 religious issue. 7 In fact, it's obvious that President Stone 8 treated it that way because when she reports 9 Ms. Carter, she reports Ms. Carter for her religious 10 comments, quote/unquote, quotes taken directly from 11 her complaint. 12 MR. GREENFIELD: And I guess my response 13 to that, your Honor, would be is that enough, still 14 sufficient to put either the Union or the company on 15 notice that they have to provide a reasonable 16 accommodation on that? I think a jury should 17 consider -- should consider that question. 18 THE COURT: Understood. 19 Thing two. 20 MR. MORRIS: I would just say whatever 21 Ms. Stone's knowledge and notice isn't necessary 22 imputed to us. The policy violation happened. I 23 think under the law we are entitled to respond to it 24 even though Ms. Carter then raises her religious 25 issues.</p>

<p style="text-align: right;">Page 1647</p> <p>1 THE COURT: Sure. Understood. 2 Okay. Is there another topic we should 3 talk about jury charge-wise? 4 MR. GILLIAM: I could address the law he 5 cites in Chalmers if you want. I don't want to 6 waste your time, though. 7 THE COURT: Sure. If you've got something 8 succinct, I'm happy to hear it. 9 MR. GILLIAM: I would just say that 10 Chalmers is a pre-Abercrombie case. And another 11 thing that's significant about that case is that 12 there the employer actually engaged in accommodation 13 efforts with the employee, and the whole issue there 14 was whether the accommodation was reasonable. 15 It was not a situation, as in Abercrombie 16 and in Ms. Carter's case, where the employer just 17 abruptly fired her without even initiating 18 accommodation efforts. 19 Even Alito's concurrence in Abercrombie & 20 Fitch raises the issue that the whole point of 21 undertaking the accommodation process is that the 22 employer doesn't do that, that the employer tries to 23 make efforts to work with the employee and give her 24 a reasonable accommodation and not fire her 25 abruptly.</p>	<p style="text-align: right;">Page 1648</p> <p>1 THE COURT: All right. Thank you. 2 MR. GILLIAM: But having said that, we 3 kind of touched on this issue. One the other issues 4 that I would have touched on yesterday is that right 5 now the jury charge is formulated to where one of 6 the elements of the failure to accommodate claims is 7 whether there was a conflicting job -- yeah, 8 conflicting employment requirement. 9 Abercrombie also illustrates why that 10 element is -- it's not the best formulation of that 11 element for a case like this. 12 Abercrombie, in that case you had an 13 employee who was not hired because of Abercrombie & 14 Fitch's headscarves policy. 15 So the way that Justice Scalia formulated 16 the elements there was not whether there was some 17 conflicting requirement. He knew, it was clear that 18 there was no conflicting requirement -- or that 19 there was a conflicting requirement because they 20 failed to hire her. 21 Similarly, in this case, they fired 22 Ms. Carter under their policies. 23 So I think that to ask the jury whether 24 there is a conflicting employment requirement is a 25 bit confusing because that -- that is a -- that</p>
<p style="text-align: right;">Page 1649</p> <p>1 should be a clear settled issue, resolved issue. 2 They fired Ms. Carter. That's the conflict with the 3 social media policy. 4 THE COURT: Any response on the conflict, 5 Mr. Morris? 6 MR. MORRIS: Yeah, two things. 7 I think one is, my recollection of the 8 testimony is Ms. Carter said, I didn't violate any 9 policy. 10 So from my vantage point -- and there is 11 case law in this regard -- if you say, I haven't 12 violated any policy, then there is nothing to be 13 accommodated. 14 So I'm not sure about -- you know, I think 15 her testimony contradicts what they are saying. 16 MR. GILLIAM: However you construe 17 Ms. Carter's testimony there, Southwest sure thought 18 that Ms. Carter violated the social media policy. 19 They fired her for it. 20 MR. MORRIS: Your Honor, there is a 21 case -- and I think we cited some of it in our 22 summary judgment motion -- where courts have 23 dismissed claims or granted summary judgment on 24 claims where the person alleges, actually violated 25 no policy, but they terminated anyway.</p>	<p style="text-align: right;">Page 1650</p> <p>1 And the reasoning in those cases is if you 2 allege that no policy is violated and you are 3 terminated, what you are alleging is a 4 straightforward religious discrimination claim, not 5 a failure to accommodate claim. Because there is 6 nothing to be accommodated under your own theory. 7 So you can still say, you know, the 8 employer has some kind of abstract hostility towards 9 people of my religion, which is sort of one way in 10 which you can establish liability, perhaps, under 11 Title VII, but you're not in the accommodation box. 12 That's why I think it is relevant. 13 MR. GILLIAM: All of those are 14 pre-Abercrombie cases. 15 MR. MORRIS: That's not accurate. 16 And if I could just suggest one other 17 thing about the conflict. You know, Ms. Carter's 18 articulated religious belief is that she's a 19 Christian and that abortion is the taking of human 20 life. 21 It's not clear, in my view on the record, 22 that the particular actions she engaged in were 23 clear manifestations of that religious practice. 24 I'm not sure that there is any evidence on 25 the record right now that she was not allowed to</p>

<p style="text-align: right;">Page 1651</p> <p>1 manifest her articulated belief in the workplace. 2 Just because she wasn't allowed to send 3 these particular videos -- and we cite some cases 4 about that -- just because something in some way is 5 related to your religion doesn't mean it's a 6 practice that's required to be accommodated. 7 So, for example, you know, you want to 8 take -- the example you used earlier, you want to 9 travel to Mecca. The fact that you feel like doing 10 it in March, you want to travel to Mecca in March, 11 is not something you have to accommodate. 12 Similarly, your view that abortion is the 13 taking of a human life, the fact that you want to 14 circulate videos to other people in that regard is 15 not necessarily your religious belief itself. 16 MR. GILLIAM: Your Honor, he's addressing 17 the -- what you call the personal preference cases, 18 that personal preference doesn't necessarily dictate 19 what a reasonable accommodation is. And that issue 20 arises when the employer undertakes to make efforts 21 to provide a reasonable accommodation. 22 But here they didn't do that. They fired 23 her right away. They didn't undertake any 24 accommodation efforts. 25 So whether -- if they had provided her or</p>	<p style="text-align: right;">Page 1652</p> <p>1 attempted to provide her a reasonable accommodation, 2 then it's true that maybe Ms. Carter's personal 3 preferences for how she made her posts or 4 communicated with the Union, maybe that would come 5 into play. But it just doesn't here because they -- 6 they short-circuited the whole process by firing her 7 immediately. 8 THE COURT: They are here. We can bring 9 them in. Anyone need a break or are we okay? 10 MR. GREENFIELD: I could use a two-minute 11 restroom break. 12 THE COURT: Let's do it. Let's try two to 13 three minutes, how about that? 14 So I will go into recess. I will come 15 back on in a couple of minutes, and then we will 16 bring in the jury. 17 THE COURT SECURITY OFFICER: All rise. 18 (Recess.) 19 THE COURT SECURITY OFFICER: All rise. 20 THE COURT: Okay. We can go ahead and 21 bring in Mr. Schneider, if there is nothing else 22 housekeeping-wise. 23 MR. McKEEBY: That housekeeping issue on 24 the exhibit, do you care if Mr. Schneider is here? 25 THE COURT: The exhibit was not with him,</p>
<p style="text-align: right;">Page 1653</p> <p>1 right? 2 MR. McKEEBY: Correct. 3 THE COURT: I don't have a problem with 4 him being on the stand if -- you know what, I can 5 mute the witness monitor alone and everyone else can 6 see it. So how about we do that. We can go ahead 7 and bring him in. I will mute the witness monitor 8 for you to flash 36 on. 9 MR. McKEEBY: It's not technically my turn 10 right now, but -- 11 THE COURT: Oh, that's right. Should we 12 wait for your next turn with him and do it? 13 MR. McKEEBY: Yes. 14 THE COURT: Okay. 15 (The witness entered the courtroom.) 16 THE COURT: Welcome back, Mr. Schneider, 17 to your rightful place in the courtroom. 18 We can go ahead and get the jury now. 19 Mr. Pryor, I thought we had just handed 20 the baton over to you, is that correct? 21 So it's the end of round one. You went, 22 you went, and then it's to you. So you can go ahead 23 and take your rightful place. 24 (The jurors entered the courtroom.) 25 THE COURT: Okay. You can be seated.</p>	<p style="text-align: right;">Page 1654</p> <p>1 And, Mr. Schneider, you are still under 2 oath, so we will just go ahead and proceed with the 3 questions from Mr. Pryor on cross-examination. 4 I will just ask y'all to keep some space 5 between questions and answers. 6 You can proceed, Mr. Pryor. 7 CROSS-EXAMINATION 8 BY MR. PRYOR: 9 Q. Mr. Schneider, let's look at Exhibit 74, what 10 was referred to as Exhibit 74.5 yesterday. 11 And where it says, "Democrats, this is what you 12 support?" do you know whether or not that was 13 written by Ms. Carter or someone else? 14 A. It was on Ms. Carter's page, but I'm not sure 15 who wrote it. 16 Q. Do you think she actually made the video? 17 A. I don't believe so. 18 Q. Okay. Did you ask who wrote that? 19 A. She stated that this information was what she 20 believed -- 21 Q. Was what -- 22 A. -- but I didn't ask the question, no. 23 Q. She posted this from someone else to show this 24 video? Yes? 25 A. Yes.</p>

<p style="text-align: right;">Page 1655</p> <p>1 MR. PRYOR: Let's look at Exhibit 10.</p> <p>2 BY MR. PRYOR:</p> <p>3 Q. While he's calling up Exhibit 10, you were</p> <p>4 asked yesterday, did Ms. Carter, during the</p> <p>5 fact-finding meeting, raise any complaint that she</p> <p>6 was being discriminated against by the company</p> <p>7 because of her religion.</p> <p>8 Do you recall that?</p> <p>9 A. Yes.</p> <p>10 Q. And, in fact, at that point in time, Southwest</p> <p>11 had taken no action in regard to Ms. Carter, true?</p> <p>12 A. At what point in time?</p> <p>13 Q. The fact-finding meeting. You hadn't --</p> <p>14 Southwest hadn't done anything to her, had they?</p> <p>15 A. No. We hadn't made a decision at that point.</p> <p>16 Q. They didn't fire her at that point because of</p> <p>17 her religion; that was later.</p> <p>18 MR. McKEEBY: Objection to the</p> <p>19 characterization.</p> <p>20 THE COURT: Sustained.</p> <p>21 BY MR. PRYOR:</p> <p>22 Q. At the fact-finding meeting --</p> <p>23 MR. McKEEBY: And move to strike, your</p> <p>24 Honor. I'm sorry.</p> <p>25 THE COURT: I will strike that.</p>	<p style="text-align: right;">Page 1656</p> <p>1 You can ask a new question.</p> <p>2 BY MR. PRYOR:</p> <p>3 Q. At the fact-finding meeting, no action had been</p> <p>4 taken against her because of her religion for which</p> <p>5 she would then complain, true?</p> <p>6 A. No action had been taken. We hadn't finished</p> <p>7 the investigation and she hadn't given all her</p> <p>8 information at that point.</p> <p>9 Q. Okay. That's my point. He was saying, Well,</p> <p>10 she didn't complain that you were discriminating</p> <p>11 against her because of her religion at the</p> <p>12 fact-finding meeting.</p> <p>13 Well, that's kind of silly because no action</p> <p>14 had been taken yet for her to complain about, true?</p> <p>15 A. No action had been taken yet, no.</p> <p>16 Q. Is my statement true? There was nothing for</p> <p>17 her to complain about in terms of Southwest taking</p> <p>18 action because no action had been taken. True?</p> <p>19 A. She could not complain about the action, that</p> <p>20 is true.</p> <p>21 Q. Well, there would be nothing to complain about</p> <p>22 because you hadn't taken action, right?</p> <p>23 A. I had not taken action, yes.</p> <p>24 Q. So you are agreeing with my statement?</p> <p>25 A. She did not complain at that point, if that is</p>
<p style="text-align: right;">Page 1657</p> <p>1 your question, yes.</p> <p>2 Q. That's only half my question.</p> <p>3 I'm going to see if you are going to agree,</p> <p>4 there was nothing for her to complain about at that</p> <p>5 point because you hadn't taken action against her,</p> <p>6 true?</p> <p>7 A. True.</p> <p>8 Q. Okay. And the same thing in regard to Union</p> <p>9 activity. There was nothing for her to complain</p> <p>10 about Southwest taking action against her for Union</p> <p>11 activity because Southwest, at the fact-finding</p> <p>12 meeting, had taken no action, true?</p> <p>13 A. True.</p> <p>14 Q. That wasn't an effort -- those questions</p> <p>15 weren't an effort to try and mislead the jury, was</p> <p>16 it?</p> <p>17 MR. McKEEBY: Objection, your Honor.</p> <p>18 THE COURT: Sustained.</p> <p>19 MR. McKEEBY: And move to strike.</p> <p>20 THE COURT: Sustained.</p> <p>21 Jury, please disregard.</p> <p>22 MR. PRYOR: Let's look at Exhibit 10.</p> <p>23 We move for the introduction of</p> <p>24 Exhibit 10.</p> <p>25 THE COURT: Any objection to 10?</p>	<p style="text-align: right;">Page 1658</p> <p>1 MR. GREENFIELD: None from the Union.</p> <p>2 MR. McKEEBY: No objection.</p> <p>3 THE COURT: Okay. 10 is in.</p> <p>4 You can publish.</p> <p>5 (The referred-to document was admitted</p> <p>6 into evidence as Trial Exhibit 10.)</p> <p>7 BY MR. PRYOR:</p> <p>8 Q. Now, this is the Southwest accommodation</p> <p>9 policy, true?</p> <p>10 A. Yes.</p> <p>11 Q. And it says, "In regard to the ACT team is</p> <p>12 responsible for determining whether a reasonable</p> <p>13 workplace accommodation can be made. As such, an</p> <p>14 applicant or employee in need of an accommodation or</p> <p>15 a leader aware of an applicant or employee's need or</p> <p>16 request for accommodation should contact Southwest's</p> <p>17 ACT team."</p> <p>18 Did I read that correctly?</p> <p>19 A. Yes.</p> <p>20 Q. What does "leader" refer to?</p> <p>21 A. Somebody in a leadership position at Southwest</p> <p>22 Airlines.</p> <p>23 Q. And, in fact, "leader" is just about anyone in</p> <p>24 management. It would certainly include you,</p> <p>25 correct?</p>

<p style="text-align: right;">Page 1659</p> <p>1 A. Yes.</p> <p>2 Q. Do you recall telling us, when I first asked</p> <p>3 you questions in this trial, that you had no</p> <p>4 obligation to report an employee's potential need</p> <p>5 for an accommodation, that it was the employee's</p> <p>6 responsibility?</p> <p>7 A. It's the employee's responsibility to let me</p> <p>8 know or to reach out to the ACT team, that's</p> <p>9 correct.</p> <p>10 Q. Is that what this says? Where does it say it's</p> <p>11 the employee -- do you see where it says "or a</p> <p>12 leader aware of an applicant or employee's need."</p> <p>13 It doesn't say the employee has to tell you.</p> <p>14 You just have to be aware of the need. The employee</p> <p>15 doesn't have to play lawyer, the employee doesn't</p> <p>16 have to use magic words, true?</p> <p>17 A. I don't know what "magic words" would be.</p> <p>18 Q. Do you believe that the policy requires you, if</p> <p>19 you are aware that an employee is involved in</p> <p>20 protected activity and has a need for an</p> <p>21 accommodation, whether they ask you or not, you</p> <p>22 should go to the ACT team and make them aware of it?</p> <p>23 MR. GREENFIELD: Objection, compound</p> <p>24 question.</p> <p>25 THE COURT: I will overrule that.</p>	<p style="text-align: right;">Page 1660</p> <p>1 You can answer.</p> <p>2 THE WITNESS: Yes, if we were made aware</p> <p>3 of it.</p> <p>4 BY MR. PRYOR:</p> <p>5 Q. Well, let's talk about "aware."</p> <p>6 When someone tells you, I'm engaged in activity</p> <p>7 because of my religious belief, and you are getting</p> <p>8 ready to fire them for engaging in that activity,</p> <p>9 that doesn't tell you there might be a need for an</p> <p>10 accommodation?</p> <p>11 A. I did not come to that conclusion.</p> <p>12 Q. I understand that. But do you not see when</p> <p>13 someone raises something like their religious belief</p> <p>14 that you should raise that issue with ACT and</p> <p>15 didn't?</p> <p>16 MR. McKEEBY: Objection, vague and</p> <p>17 incomplete hypothetical.</p> <p>18 THE COURT: I'll allow it.</p> <p>19 THE WITNESS: If she would have made it</p> <p>20 aware to me specifically, then I would have, that</p> <p>21 she needed the accommodation.</p> <p>22 BY MR. PRYOR:</p> <p>23 Q. What more could she do other than use the magic</p> <p>24 word "accommodation" with you, telling you -- she</p> <p>25 told you over and over about how this is one of the</p>
<p style="text-align: right;">Page 1661</p> <p>1 most important aspects of her life, and her</p> <p>2 relationship with God tells her that she needs to</p> <p>3 raise these issues. That doesn't tell you that</p> <p>4 religious belief is involved and an accommodation</p> <p>5 should at least be considered? It doesn't tell you?</p> <p>6 A. No, not at the time.</p> <p>7 Q. Would it now?</p> <p>8 A. If it was raised to me --</p> <p>9 MR. McKEEBY: Objection, relevance.</p> <p>10 MR. PRYOR: Well, we have a claim for</p> <p>11 punitive damages.</p> <p>12 THE COURT: Hold on. Hold on. That's a</p> <p>13 speaking objection.</p> <p>14 I'll allow it.</p> <p>15 BY MR. PRYOR:</p> <p>16 Q. Go ahead. You can answer.</p> <p>17 A. If it was raised to me, then yes, I would.</p> <p>18 Q. I just told you how it was raised.</p> <p>19 And if it was raised with you, someone tomorrow</p> <p>20 came in and said, Hey this post on my personal</p> <p>21 Facebook page is because of my religious beliefs,</p> <p>22 heartfelt, significant, important religious beliefs</p> <p>23 and communication, would you then, would you now go</p> <p>24 to the ACT team and say, Hey, do you think we should</p> <p>25 consider an accommodation here? Would you at least</p>	<p style="text-align: right;">Page 1662</p> <p>1 do that?</p> <p>2 MR. McKEEBY: Objection, vague, incomplete</p> <p>3 hypothetical, relevance.</p> <p>4 THE COURT: I'll allow it.</p> <p>5 THE WITNESS: If it was made aware to me</p> <p>6 that, yes, they needed the accommodation, yes, the</p> <p>7 religion was the reason for the accommodation, then</p> <p>8 I would, yes.</p> <p>9 BY MR. PRYOR:</p> <p>10 Q. So I guess where our disconnect is, I have now</p> <p>11 told you all the facts. I just didn't use the word</p> <p>12 "accommodation."</p> <p>13 If the employee still doesn't use the magic</p> <p>14 word "accommodation," you are not going to go to ACT</p> <p>15 and see if an accommodation can be granted, true?</p> <p>16 A. It really depends on the situation, sir. I'm</p> <p>17 not trying to say I'm not doing -- or taking care of</p> <p>18 my employees. I'm just saying that there is a</p> <p>19 situation where they would make me aware of it more</p> <p>20 so than what this case had.</p> <p>21 Q. Okay. So this case, where Charlene told you</p> <p>22 over and over at the fact-finding meeting -- the</p> <p>23 jury will get to it, we'll put it up for them during</p> <p>24 closing -- but you've read it. And you know that</p> <p>25 over and over she raised this was part of her</p>

<p style="text-align: right;">Page 1663</p> <p>1 heartfelt religious belief that she was exercising. 2 That was not enough to put you on notice that she 3 needed an accommodation? True? 4 MR. GREENFIELD: Objection, your Honor, 5 asked and answered at this point. 6 THE COURT: I will sustain. 7 MR. PRYOR: What was the objection? 8 THE COURT: Sustained. 9 MR. PRYOR: I just didn't hear what the 10 objection was. 11 THE COURT: Asked and answered. 12 MR. PRYOR: Fair enough. 13 BY MR. PRYOR: 14 Q. How about union activity. If someone came in 15 and told you, Hey, I'm engaged in complaining to my 16 union, and you shouldn't be taking action against me 17 because I'm engaged in this protected activity. 18 Just knowing those facts, would you go to the 19 ACT team and say, Hey, we need to consider an 20 accommodation here? Just on those facts, would that 21 be enough? 22 A. No. 23 Q. Is there a process under the social media 24 policy for pre-approval of posts, so every time 25 somebody at Southwest that's an employee that's at</p>	<p style="text-align: right;">Page 1664</p> <p>1 home on their personal computer and wants to say 2 something to the world about their opinion about 3 whatever, that they can send it to Southwest 4 Airlines to make sure they won't get fired for it? 5 Is there a process for that? 6 A. We always ask our employees to reach out to the 7 base if they have any questions that have to do with 8 the airline and business that they would do. 9 Q. Has anyone ever done that, to your knowledge? 10 A. I have had people reach out to me and ask me 11 about putting something on social media, and I have 12 cautioned them. 13 Q. Did anyone send you something for pre-approval 14 before they posted it? 15 A. No, not that I can recall. 16 Q. And let's look at Exhibit 10 again. 17 Is there anything in the policy that says -- 18 let's see. That's the accommodation policy. 19 Let's look at the social media policy. I think 20 it's -- I don't know what it is, 8, whatever it is. 21 It looks like it's 9. Let's look at Exhibit 9. 22 Is there a process in the written social media 23 policy for an employee to come to Southwest Airlines 24 in advance and get approval so they won't get fired? 25 Is there anything like that in this policy?</p>
<p style="text-align: right;">Page 1665</p> <p>1 A. I would have to read through it in detail, 2 but -- 3 Q. Read it. Read it. You are telling me you 4 think it's in there. 5 By the way, I was told by some of the witnesses 6 yesterday that took the stand that you've got to 7 look at these policies every year, you've got to be 8 familiar with them, or you can't work at Southwest 9 Airlines. Is that true? 10 MR. McKEEBY: Objection, mischaracterizes 11 testimony. It's compound as well. 12 MR. PRYOR: The jury can see if I 13 mischaracterized it or not. 14 THE COURT: Hold on. 15 I will allow you to rephrase it. I will 16 sustain the objection. 17 BY MR. PRYOR: 18 Q. Is it, in fact, your obligation to be familiar 19 with this policy as you sit here today as a 28-year 20 employee of Southwest Airlines that fired someone 21 under this very policy? 22 A. Yes, we are supposed to be aware of it. 23 Q. So you can't answer the basic question of 24 whether or not this policy provides a procedure for 25 pre-approval of posts without reviewing it, true?</p>	<p style="text-align: right;">Page 1666</p> <p>1 MR. McKEEBY: Objection, argumentative. 2 THE COURT: I'll allow it. 3 THE WITNESS: I don't remember that part 4 of it. I would have to look through this to see if 5 that's actually a part, because I don't remember 6 there being something that says they could submit 7 before they post. 8 BY MR. PRYOR: 9 Q. We will let the jury read it, and you can maybe 10 read it in your off-time to see whether or not there 11 is such -- 12 MR. GREENFIELD: Objection, your Honor, to 13 the sidebars. 14 MR. McKEEBY: Objection to the last part. 15 Move to strike. 16 THE COURT: Sustained. 17 I will strike the sidebar. 18 MR. PRYOR: I pass the witness. 19 THE COURT: Are you passing the witness, 20 Mr. Pryor? 21 MR. PRYOR: I'm sorry. I didn't say it 22 into the microphone, I guess. I pass the witness, 23 your Honor. 24 THE COURT: Okay. 25 Mr. McKeeby, round two.</p>

<p style="text-align: right;">Page 1667</p> <p>1 MR. McKEEBY: Your Honor, the housekeeping 2 matter that we discussed. 3 THE COURT: Yes. So, jury, there was an 4 exhibit that was admitted yesterday, and I neglected 5 to show y'all the exhibit. So I'm un-muting your 6 monitors. 7 Sidebar right quick. 8 (Thereupon, the following proceedings were 9 had at sidebar:) 10 THE COURT: So we pulled the transcript 11 and couldn't find a reference to 36 in it. Is there 12 another witness who you can bring it up with, 36? 13 MR. McKEEBY: With Ms. Hudson? 14 No, I know I did. 15 THE COURT: I have 38. 16 MR. McKEEBY: Was that through Hudson? 17 Because that was the only exhibit that I 18 introduced through Hudson would have been 36. Maybe 19 there was something in the numbering that was off. 20 THE COURT: So this was late in the day, 21 but Hudson was the next to last, and then we had 44, 22 7, 11, 2, 9, 16. 23 How about we take it up at another break. 24 We will all do research and figure it out. 25 I just -- I don't have any basis to flash</p>	<p style="text-align: right;">Page 1668</p> <p>1 it in front of the jury yet because I don't have a 2 record of it having come in with a witness. Does 3 that make sense? 4 MR. McKEEBY: Well, it makes sense in the 5 sense that I understand, but it just does not 6 comport with my recollection at all. Because I know 7 I asked her, What was the context of you sending 8 this? And she said, Because there was a lot of 9 infighting between flight attendants. 10 So we published this to tell them -- it 11 was towards the end of her testimony, and I know I 12 showed her the document, and I thought I had 13 admitted it. 14 I know I asked her, Why did you send this 15 out at the time? 16 And she said, The reason is because there 17 was squabbling about social media, and we wanted to 18 remind the flight attendants of our policy. 19 I'm certain I asked that. 20 THE COURT: I mean, if you talked about it 21 with her, that's fine. Here is my thought. These 22 are business records. The custodian probably can 23 authenticate anything. 24 So the next round, you can bring it up. 25 And if you already talked about it with her, now the</p>
<p style="text-align: right;">Page 1669</p> <p>1 jury will see it. 2 MR. McKEEBY: Okay. 3 (Thereupon, the sidebar was concluded and 4 the following proceedings were held in open 5 court:) 6 THE COURT: So we are not going to flash 7 an exhibit yet. You will probably see it at some 8 point coming up. 9 So you can proceed, Mr. McKeeby. You can 10 go right there if you want to. 11 MR. McKEEBY: I'm going to try to go right 12 there. 13 REDIRECT EXAMINATION 14 BY MR. McKEEBY: 15 Q. What is a Read Before Fly memo? 16 A. That is a memo that's sent out to the flight 17 attendant work group that they need to read before 18 they fly the next time. 19 Q. Do you get those as well as a base manager? 20 A. Yes, I do. 21 MR. McKEEBY: Can you pull up 36? 22 Move to admit 36 into evidence and 23 publish. 24 MR. PRYOR: Lack of foundation at this 25 point.</p>	<p style="text-align: right;">Page 1670</p> <p>1 THE COURT: Can you set it? 2 BY MR. McKEEBY: 3 Q. Is this a Read Before Fly memo? 4 I'm sorry. Let me back up. 5 What is this document? 6 A. It is a Read Before Fly that was put out by 7 Naomi Hudson. 8 Q. And who is Ms. Hudson? 9 MR. PRYOR: Well -- I'm sorry. Go ahead. 10 THE COURT: Proceed. 11 BY MR. McKEEBY: 12 Q. Who is Ms. Hudson? 13 A. She was director of labor relations at the 14 time. 15 Q. And is this the type of document that you would 16 have received? 17 A. Yes, it is. 18 Q. In the normal course of your business as a base 19 manager? 20 A. Yes. 21 MR. McKEEBY: Move to admit Exhibit 36 and 22 publish. 23 MR. PRYOR: Lack of foundation. He's 24 established no personal knowledge of this witness. 25 THE COURT: I will overrule that.</p>

<p style="text-align: right;">Page 1671</p> <p>1 Any objection from the Union?</p> <p>2 MR. GREENFIELD: No, your Honor.</p> <p>3 THE COURT: All right. It's admitted into</p> <p>4 evidence and we are publishing.</p> <p>5 (The referred-to document was admitted</p> <p>6 into evidence as Trial Exhibit 36.)</p> <p>7 MR. McKEEBY: And how about Exhibit 10.</p> <p>8 If you could blow up the same spot and highlight the</p> <p>9 same area that we did previously, which is -- yes,</p> <p>10 that sentence right there.</p> <p>11 BY MR. McKEEBY:</p> <p>12 Q. Mr. Pryor asked you some questions about this</p> <p>13 section of the policy, correct?</p> <p>14 A. Yes.</p> <p>15 Q. And I think we established that you are a</p> <p>16 leader at Southwest Airlines, correct?</p> <p>17 A. Yes.</p> <p>18 Q. And as you look at the policy, would you agree</p> <p>19 that at the time of Ms. Carter's fact-finding</p> <p>20 meeting that you were a leader aware of an</p> <p>21 employee's need for an accommodation?</p> <p>22 MR. PRYOR: Object, leading.</p> <p>23 THE COURT: I'll allow it.</p> <p>24 THE WITNESS: I was not aware that she</p> <p>25 needed an accommodation.</p>	<p style="text-align: right;">Page 1672</p> <p>1 BY MR. McKEEBY:</p> <p>2 Q. Did she tell you during the fact-finding</p> <p>3 meeting that her religious beliefs conflicted with a</p> <p>4 particular Southwest policy?</p> <p>5 A. No, she did not.</p> <p>6 Q. Did she tell you that the company should not</p> <p>7 apply its policies to her because of her religious</p> <p>8 beliefs or practices?</p> <p>9 MR. PRYOR: Object, leading.</p> <p>10 THE COURT: I'll allow it.</p> <p>11 THE WITNESS: No, she did not.</p> <p>12 MR. McKEEBY: Nothing further.</p> <p>13 THE COURT: Okay. Mr. Greenfield.</p> <p>14 MR. GREENFIELD: No further questions,</p> <p>15 your Honor.</p> <p>16 THE COURT: Okay. Round two for you?</p> <p>17 MR. PRYOR: As much I would like to, I</p> <p>18 have to say no.</p> <p>19 THE COURT: Okay. So no further questions</p> <p>20 for you because you can't ask questions based on</p> <p>21 your own questions, Mr. McKeeby.</p> <p>22 So Mr. Schneider, you are now re-excused</p> <p>23 as a witness. Thank you for coming back.</p> <p>24 Now Southwest can call its next witness.</p> <p>25 MR. McKEEBY: Can Mr. Schneider be excused</p>
<p style="text-align: right;">Page 1673</p> <p>1 for the day?</p> <p>2 THE COURT: Yes.</p> <p>3 MR. McKEEBY: Southwest calls Meggan</p> <p>4 Jones.</p> <p>5 THE COURT: Okay. You may do so.</p> <p>6 Ms Jones, you can come take the stand.</p> <p>7 MR. McKEEBY: And by "excused for the</p> <p>8 day," can he fly back to Denver?</p> <p>9 THE COURT: I will give you no further</p> <p>10 restrictions.</p> <p>11 Any desire at this present time to recall</p> <p>12 him in the plaintiff's rebuttal case?</p> <p>13 MR. PRYOR: A desire, but we do no plan on</p> <p>14 it.</p> <p>15 THE COURT: Okay. Understood.</p> <p>16 Then I will give you no restrictions on</p> <p>17 your travel or speech. You are free to leave.</p> <p>18 (The witness exited the courtroom.)</p> <p>19 (MEGGAN JONES was duly sworn by the</p> <p>20 Clerk.)</p> <p>21 THE COURT: Okay. Ms. Jones, you know the</p> <p>22 routine because we've said it with every witness.</p> <p>23 Mr. McKeeby, you can continue.</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 1674</p> <p>1 DIRECT EXAMINATION</p> <p>2 BY MR. McKEEBY:</p> <p>3 Q. Ms. Jones, state your name for the record,</p> <p>4 please.</p> <p>5 A. Meggan Jones.</p> <p>6 Q. How long have you been -- where are you</p> <p>7 employed currently? I'm sorry.</p> <p>8 A. At Southwest Airlines.</p> <p>9 Q. What is your current position?</p> <p>10 A. Senior manager of labor administration.</p> <p>11 Q. How long have you been in that role?</p> <p>12 A. Just over a year and a half now.</p> <p>13 Q. What were you before that?</p> <p>14 A. I was a base manager prior to that. I was an</p> <p>15 assistant base manager prior to that.</p> <p>16 Q. Where were you a base manager?</p> <p>17 A. In Phoenix, Arizona.</p> <p>18 Q. And in 2017, what was your position?</p> <p>19 A. I was an assistant base manager at the Denver</p> <p>20 in-flight base.</p> <p>21 Q. How long have you been employed overall by</p> <p>22 Southwest Airlines?</p> <p>23 A. Just over 11 years.</p> <p>24 Q. Can you briefly explain to the jury, since 2017</p> <p>25 is the relevant time period, what you did as a</p>

<p style="text-align: right;">Page 1675</p> <p>1 assistant base manager at the Denver airport. 2 A. I supported the Denver in-flight team and 3 flight attendants. I supported the base manager 4 there. Scheduling issues within the staff, personal 5 issues that arose with the flight attendants, 6 conducted investigations, and things of that nature. 7 Q. And I don't think I asked you this question. 8 How long were you the assistant base manager in 9 Denver? 10 A. I was three years, three and a half years. 11 Q. Okay. Did you work with Ms. Carter at the 12 Denver airport? 13 A. Yes, I did. 14 Q. What were your observations or experience with 15 her prior to the investigation that we will talk 16 about? 17 A. Prior to this investigation and prior to being 18 an assistant base manager, I was a supervisor at the 19 Denver base, and I was actually her direct 20 supervisor. 21 My interactions with her had always been very 22 friendly up until this point. I hadn't seen her in 23 a while when this meeting occurred because she 24 hadn't flown much over the previous three years. 25 But I had no problems or, you know, concerns at that</p>	<p style="text-align: right;">Page 1676</p> <p>1 point. 2 Q. You mentioned that she hadn't flown for some 3 time. Is there a process at Southwest for flight 4 attendants to trade or give away their shifts? Can 5 you kind of explain that to jury? 6 A. Yes. Southwest is one of the only airlines in 7 the country that does not have a flying minimum for 8 their flight attendants, so they can contractually 9 trade down or give away all of their assignments, 10 which is a huge perk of the job. 11 Q. And how do they go about doing that? 12 A. There is a system that the flight attendants 13 utilize that they can put their trips in for trade. 14 They can say, I want to give this away. They can 15 put money to say, Hey, I will give you money if you 16 pick up this trip, or to trade into a different 17 trip. And it's a voluntary process. 18 Q. How did you find out about the complaints 19 against Ms. Carter? 20 A. Ed Schneider made me aware. 21 Q. And in what context? 22 A. He let me know that he had received a complaint 23 and was going to be conducting an investigation, and 24 asked me if I would assist as his note-taker in that 25 meeting.</p>
<p style="text-align: right;">Page 1677</p> <p>1 Q. Assist as the -- 2 A. The note-taker. 3 Q. Did you have any other responsibilities in 4 connection with the investigative process? 5 A. I asked some clarifying questions during the 6 meeting, but other than that, I really didn't have a 7 role in the investigation itself. 8 Q. How about prior to the fact-finding meeting, 9 were you asked to do anything prior to the meeting? 10 A. I was asked to review the videos that had been 11 sent, and I did go look at her Facebook page. Ed's 12 not real Facebook savvy and I am. 13 I went to check it out, which is pretty 14 standard any time we have a social media 15 investigation, just to see some context of what we 16 are looking at here from a nexus standpoint or 17 whatnot. 18 Q. I will get to that in a second. 19 Did I understand your testimony correctly that 20 you also reviewed the videos? 21 A. Yes, I did. 22 Q. What do you remember about that? 23 A. I was very disturbed by those videos. 24 Q. Let me stop you. Did you review two videos? 25 A. Yes, I did.</p>	<p style="text-align: right;">Page 1678</p> <p>1 Q. Go ahead. 2 A. I had to look at them to become familiar with 3 the investigation. And I just remember being kind 4 of horrified by the images because I -- this is the 5 Internet, and we don't know, really truly, where 6 those images came from. 7 I mean, I thought that could be somebody's 8 miscarried baby or somebody's -- it felt like an 9 exploitation of something very personal and horrific 10 and it made me feel queasy. It kind of ruined my 11 day. I didn't feel great for the rest of the day. 12 Q. You then, I think, indicated that you reviewed 13 Ms. Carter's Facebook page. 14 Why did you do that? 15 A. It's pretty standard, any time there is a 16 social media investigation, just to kind of get some 17 context of, you know, okay. We get a lot of social 18 media complaints. So, you know, what really are we 19 looking at here from a severity standpoint and a 20 nexus standpoint. 21 Q. Did you pull the photographs that we've seen in 22 this case from the Facebook page? 23 A. I did pull a few photographs, yes. 24 Q. Can you describe those photos? 25 A. What I recall there being was a picture of her</p>

<p style="text-align: right;">Page 1679</p> <p>1 flight attendant wings with some caption about</p> <p>2 Southwest. Pictures of her in uniform on the</p> <p>3 aircraft, several pictures of those.</p> <p>4 Q. And what did you do to find those posts? Walk</p> <p>5 the jury kind of through it. I don't know their</p> <p>6 Facebook familiarity, so walk them through kind of</p> <p>7 what you did to identify those posts, please.</p> <p>8 A. It was easy to locate her page on Facebook. It</p> <p>9 was a public page, meaning anything that was on it</p> <p>10 was open to the public, which, you know, makes it</p> <p>11 very easy to see what's on there.</p> <p>12 And to find those photographs, I clicked on</p> <p>13 "photos," and there they were. I didn't have to do</p> <p>14 a lot of digging, you don't generally have to do a</p> <p>15 lot of digging on Facebook to find photographs and</p> <p>16 things like that. So it wasn't a laborious process</p> <p>17 by any means.</p> <p>18 Q. How long did it take you?</p> <p>19 A. Maybe three minutes in its entirety.</p> <p>20 Q. And did I understand correctly that you</p> <p>21 attended the fact-finding meeting?</p> <p>22 A. Yes, I did.</p> <p>23 Q. Let's talk a little bit about that.</p> <p>24 Were you there in person?</p> <p>25 A. Yes, I was.</p>	<p style="text-align: right;">Page 1680</p> <p>1 Q. And if you could remind the jury, who else was</p> <p>2 there?</p> <p>3 A. Ed Schneider was there. Denise Gutierrez was</p> <p>4 there from employee relations. Edie Barnett from</p> <p>5 our -- what we call our people department. Chris</p> <p>6 Sullivan and Charlene Carter. And Chris was acting</p> <p>7 as a 556 rep.</p> <p>8 Q. Did Ms. Carter admit at the fact-finding</p> <p>9 meeting to sending the videos to Ms. Stone?</p> <p>10 A. Yes.</p> <p>11 Q. Now, had you had any previous dealings with</p> <p>12 Ms. Stone?</p> <p>13 A. I knew her before, but not well. I had met her</p> <p>14 in, like, passing a few times.</p> <p>15 Q. In passing at the airport?</p> <p>16 A. Like at headquarters. At the airport.</p> <p>17 Q. Can you describe to the jury your general</p> <p>18 observations at the fact-finding meeting?</p> <p>19 A. Yes. I was very surprised at the fact-finding</p> <p>20 meeting. I was -- I was frustrated at kind of what</p> <p>21 was happening during the meeting. It was a</p> <p>22 difficult meeting.</p> <p>23 Charlene kept taking us off topic, which the</p> <p>24 topic was these videos that were sent, and there was</p> <p>25 a lot of information being presented.</p>
<p style="text-align: right;">Page 1681</p> <p>1 But what was frustrating about it was -- and</p> <p>2 shocking was just she had such a lack of remorse in</p> <p>3 this meeting and was very proud of what she had</p> <p>4 done.</p> <p>5 And that was shocking to me because it was so</p> <p>6 different from the Charlene that I had interacted</p> <p>7 with prior to this meeting. I was kind of taken</p> <p>8 aback by just the lack of humility and the lack of</p> <p>9 receptiveness that this action was very hurtful to</p> <p>10 another employee.</p> <p>11 Q. Were you the one who was responsible for taking</p> <p>12 the notes of the meeting?</p> <p>13 A. Yes.</p> <p>14 MR. McKEEBY: And let's pull those up. I</p> <p>15 think they have been admitted. 98.</p> <p>16 BY MR. McKEEBY:</p> <p>17 Q. Did you create this document?</p> <p>18 A. Yes, I did.</p> <p>19 Q. Did you say anything during the fact-finding</p> <p>20 meeting?</p> <p>21 A. Yes, I did.</p> <p>22 MR. McKEEBY: Let me go to 98.13.</p> <p>23 BY MR. McKEEBY:</p> <p>24 Q. It looks like, at the bottom of the page,</p> <p>25 that's something that you said to Ms. Carter?</p>	<p style="text-align: right;">Page 1682</p> <p>1 A. Yes, it is.</p> <p>2 Q. Can you read that for the jury?</p> <p>3 A. "Charlene, if I can clarify, you do have the</p> <p>4 right to disagree or complain about your union.</p> <p>5 It's the method in which you complain or how those</p> <p>6 complaints are made that causes concern when the</p> <p>7 nature of those complaints begins to impact one of</p> <p>8 our workplace policies."</p> <p>9 Q. I think you'll have to go to the next page.</p> <p>10 A. "That's when it becomes an issue.</p> <p>11 "Your most recent post to Audrey is the main</p> <p>12 reason why we are here today, because of the graphic</p> <p>13 images and graphic nature of the post.</p> <p>14 "Audrey is still an employee of Southwest</p> <p>15 Airlines and she's represented by these policies.</p> <p>16 These are expectations and guidelines for all</p> <p>17 employees. Your most recent post to her was very</p> <p>18 disturbing to her and made her uncomfortable."</p> <p>19 Q. How did you feel after the meeting?</p> <p>20 MR. McKEEBY: You can take that down.</p> <p>21 THE WITNESS: I was pretty shocked after</p> <p>22 the meeting. I was kind of reeling from it, just</p> <p>23 the graphic nature of the post and the videos and</p> <p>24 just Charlene's conduct in the meeting. It just</p> <p>25 left me feeling kind of like perplexed and upset for</p>

<p style="text-align: right;">Page 1683</p> <p>1 the rest of the day.</p> <p>2 BY MR. McKEEBY:</p> <p>3 Q. Did you share those feelings with</p> <p>4 Mr. Schneider?</p> <p>5 A. We did have a discussion. I don't remember the</p> <p>6 details of it. But I did tell him that I was</p> <p>7 shocked because it was just so different from the</p> <p>8 Charlene I had interacted with previous to this</p> <p>9 meeting.</p> <p>10 MR. McKEEBY: Pass the witness.</p> <p>11 Thank you, Ms. Jones.</p> <p>12 THE COURT: Thank you, Mr. McKeeby.</p> <p>13 Mr. Greenfield.</p> <p>14 CROSS-EXAMINATION</p> <p>15 BY MR. GREENFIELD:</p> <p>16 Q. Good morning, Ms. Jones.</p> <p>17 A. Good morning.</p> <p>18 Q. It sounds like you are representing to the</p> <p>19 Court and the jury that you are pretty Facebook</p> <p>20 savvy, is that fair?</p> <p>21 A. You could say that.</p> <p>22 Q. And in your position in management, were you</p> <p>23 tasked with looking at social media infractions or</p> <p>24 complaints of flight attendants?</p> <p>25 A. Only if there was an infraction or a complaint</p>	<p style="text-align: right;">Page 1684</p> <p>1 that would prompt me to look.</p> <p>2 Q. About how many do you think you reviewed?</p> <p>3 A. That's a loaded question. Probably --</p> <p>4 Q. From 2015 to 2017, how many do you think you</p> <p>5 reviewed?</p> <p>6 A. Probably thousands.</p> <p>7 Q. Thousands of complaints?</p> <p>8 A. Posts --</p> <p>9 Of posts. Okay.</p> <p>10 A. -- that were brought forward.</p> <p>11 Q. Can you break that down to about how many</p> <p>12 complaints?</p> <p>13 A. Hundreds of complaints.</p> <p>14 Q. And would you be tasked with reviewing the</p> <p>15 complaints for all the different bases?</p> <p>16 A. Not necessarily, no.</p> <p>17 Q. Just if it involved an employee at your base?</p> <p>18 A. Correct.</p> <p>19 Q. And that was Phoenix, correct?</p> <p>20 A. I was Denver and Phoenix --</p> <p>21 Q. Denver.</p> <p>22 A. -- based.</p> <p>23 Q. Denver. I apologize. Thank you.</p> <p>24 MR. GREENFIELD: Sorry, Ms. Willis.</p> <p>25</p>
<p style="text-align: right;">Page 1685</p> <p>1 BY MR. GREENFIELD:</p> <p>2 Q. I believe you said it was Denver, is that</p> <p>3 correct?</p> <p>4 A. In 2017, it would have been Denver-based.</p> <p>5 Q. Okay. And how many bases are there?</p> <p>6 A. There's 11 what we call brick-and-mortar bases,</p> <p>7 and there's two satellite bases which are like</p> <p>8 remote bases.</p> <p>9 Q. So you are saying hundreds of complaints just</p> <p>10 at your base alone regarding social media</p> <p>11 infractions?</p> <p>12 A. That touched my base alone, yes.</p> <p>13 MR. McKEEBY: Thank you. No more</p> <p>14 questions.</p> <p>15 THE COURT: All right. And Mr. Pryor.</p> <p>16 MR. PRYOR: Not a thing, your Honor.</p> <p>17 THE COURT: So do you have any questions</p> <p>18 based on Mr. Greenfield's questions, Mr. McKeeby?</p> <p>19 MR. McKEEBY: No.</p> <p>20 THE COURT: Any need to keep this witness?</p> <p>21 We can excuse you back to your seat.</p> <p>22 THE WITNESS: Thank you.</p> <p>23 THE COURT: Okay. Next witness for</p> <p>24 Southwest.</p> <p>25 MR. McKEEBY: Southwest calls Denise</p>	<p style="text-align: right;">Page 1686</p> <p>1 Gutierrez.</p> <p>2 THE COURT: Okay. You may do so.</p> <p>3 (The witness entered the courtroom.)</p> <p>4 THE COURT: Ms. Gutierrez, you can come on</p> <p>5 in and approach the witness box up here.</p> <p>6 Before you get seated, we will need to</p> <p>7 swear you in. So if you could raise your right hand</p> <p>8 and Mr. Frye will give you the oath.</p> <p>9 (DENISE GUTIERREZ was duly sworn by the</p> <p>10 Clerk.)</p> <p>11 THE COURT: Okay. And I will just ask for</p> <p>12 some space between questions from lawyers and</p> <p>13 answers, and answers and questions. That way, if</p> <p>14 there is an objection, I can rule on it before you</p> <p>15 answer.</p> <p>16 You can proceed, Mr. Morris.</p> <p>17 DIRECT EXAMINATION</p> <p>18 BY MR. MORRIS:</p> <p>19 Q. Hello, Ms. Gutierrez.</p> <p>20 A. Hi. Good morning.</p> <p>21 Q. Ms. Gutierrez, who is your current employer?</p> <p>22 A. My current employer is JP Morgan Chase.</p> <p>23 Q. And what do you at JP Morgan?</p> <p>24 A. I do trend and theme analysis on conduct</p> <p>25 activity for the firm.</p>

<p style="text-align: right;">Page 1687</p> <p>1 Q. And prior to working at JP Morgan, who was your 2 employer? 3 A. Southwest Airlines. 4 Q. And how long were you employed by Southwest 5 Airlines? 6 A. Just shy of ten years, like nine and a half 7 years. 8 Q. And what positions did you hold at Southwest? 9 A. I was the -- I was an employee relations senior 10 investigator. 11 Q. Was that your position throughout your tenure 12 at Southwest? 13 A. Yes, through the majority of my tenure there, 14 yes. 15 Q. And what were your duties at Southwest? 16 A. I was responsible for conducting investigations 17 related to the harassment, sexual harassment, 18 discrimination and retaliation policy. 19 Q. And can you tell me a little bit about employee 20 relations in general, what kind of things did they 21 do at Southwest? 22 A. So when we would get allegations that someone 23 may have engaged in behavior that potentially 24 violated the policy related to harassment, sexual 25 harassment, discrimination and retaliation, we were</p>	<p style="text-align: right;">Page 1688</p> <p>1 required to do an investigation, which meant that we 2 would interview individuals that might have relevant 3 information to the alleged behavior. We would also 4 look at any additional information that might be 5 relevant to those allegations. 6 Based on that information, we would assess 7 whether there was policy violation or not. 8 Q. And did you work with the labor relations 9 department in conducting these investigations? 10 A. Yes. If it did involve a union employee, we 11 would, yes. 12 Q. Are you familiar with an investigation into a 13 complaint made by Audrey Stone regarding Charlene 14 Carter? 15 A. I am, yes. 16 Q. And how did you become familiar with that? 17 A. I don't 100 percent recall, but based on what I 18 can recall, I believe that there was an email sent 19 to the employee relations email, distribution group 20 email, related to some concerns that Audrey Stone 21 had related to some Facebook messages that she had 22 received from Charlene Carter. 23 Q. And when you learned about the investigation, 24 were you familiar with Ms. Carter? 25 A. I was not.</p>
<p style="text-align: right;">Page 1689</p> <p>1 MR. MORRIS: If we can pull up Exhibit 76. 2 THE WITNESS: Hold on one second. I have 3 got to put on my glasses. 4 BY MR. MORRIS: 5 Q. Sure. 6 A. Okay. 7 Q. If you look at the top of this email, it looks 8 like it's an email from you to Ed Schneider. 9 Do you recall this email? 10 A. I do, yes. 11 Q. Is this you reaching out to him to say that you 12 are going to assist with the investigation? 13 A. That is correct, yes. 14 MR. MORRIS: We can take that down. 15 BY MR. MORRIS: 16 Q. So what did you do in connection with the 17 investigation into Ms. Carter? 18 A. I'm sorry, I didn't hear that. 19 Q. What did you do in connection with the 20 investigation into Ms. Carter? 21 A. So I partnered with the in-flight base to 22 conduct a fact-finding. So that's usually how 23 employee relations worked with in-flight, was that 24 in-flight would lead the fact-finding, and employee 25 relations would partner with them in the</p>	<p style="text-align: right;">Page 1690</p> <p>1 fact-finding. So we would interview all of the 2 parties together. 3 Q. So did you attend the fact-finding meeting with 4 Ms. Carter? 5 A. I did, yes. 6 Q. And what was your role in that fact-finding 7 meeting? 8 A. With Ms. Carter? 9 Q. Yes. 10 A. My role was as an active participant in asking 11 questions related to the alleged behavior with 12 Audrey Stone. My role was specifically to the 13 behavior specific to the harassment, sexual 14 harassment, discrimination and retaliation policy. 15 Q. And did you attend a fact-finding meeting with 16 Ms. Stone? 17 A. I believe I did, yes. 18 Q. And was your role the same in that meeting as 19 well as it was in Ms. Carter's fact-finding meeting? 20 A. More or less. You know, Audrey Stone's was 21 really to get much more information as to what her 22 concerns were relative to the allegation she was 23 making to Ms. Carter. 24 Q. Did you make any -- let me step back. 25 When you're participating in an investigation,</p>

<p style="text-align: right;">Page 1691</p> <p>1 do you typically summarize your findings in some 2 way? 3 A. After we've conducted all of the interviews, 4 you mean? 5 Q. Correct. 6 A. Yes. Usually we would put together a summary 7 of sorts determining our outcome. 8 Q. Do you recall making any conclusions in this 9 case regarding the violations of the harassment 10 policy? 11 A. Yes, I do recall making some determinations. 12 MR. MORRIS: Let's look at Exhibit 108, 13 please. 14 BY MR. MORRIS: 15 Q. If you look down at the bottom, and it goes on 16 to the next page. 17 Does this document look familiar to you? 18 A. It does, yes. 19 Q. And what is this document? 20 A. It would be just a summary of my findings 21 related to the harassment, sexual harassment, 22 discrimination, retaliation policy. 23 Q. And looking at this document, and based on your 24 recollection, what were your findings in this case 25 regarding Ms. Carter?</p>	<p style="text-align: right;">Page 1692</p> <p>1 A. Well, you know, to be fair, I don't fully 2 remember, since it has been a little while since 3 then. 4 But looking at this email, I can see that my 5 findings were partially supported to the allegations 6 that Ms. Stone made against Ms. Carter. 7 Q. Can you explain what you meant by "partially 8 supported"? 9 A. Yes. So to the best of my recollection, 10 Ms. Stone had made, you know, several allegations 11 related to the material that she received from 12 Ms. Carter via Facebook. And we could only 13 substantiate that part of those allegations were 14 supported to violate the harassment, sexual 15 harassment, discrimination and retaliation policy. 16 So that's what we meant by "partially 17 supported," what I meant by "partially supported." 18 Q. Do you recall what those posts were that 19 partially supported a violation of that policy? 20 A. If I recall, I believe it was related to some 21 pictures that were sent of women who were dressed 22 like vaginas. 23 Q. And you thought that supported a violation of 24 the harassment policy? 25 A. I did, yes.</p>
<p style="text-align: right;">Page 1693</p> <p>1 Q. Did you make the decision to terminate 2 Ms. Carter? 3 A. No. 4 Q. Do you know who made that decision? 5 A. That would be, you know, the in-flight base 6 management in collaboration with labor relations. 7 Q. And when you are involved in an investigation 8 like Ms. Carter's, is it normally your role to make 9 a determination as to an appropriate discipline? 10 A. No. 11 Q. Who makes that decision? 12 A. It would be leadership in conjunction with, if 13 it's a union employee, labor relations. If it's a 14 non-union employee, usually their HR representative. 15 But employee relations had no role in determining 16 corrective action. 17 Q. So it's fair to say that your role was just 18 assessing whether there had been a violation of the 19 policy? 20 A. That's correct. 21 MR. MORRIS: Pass the witness. 22 THE COURT: All right. Mr. Greenfield. 23 CROSS-EXAMINATION 24 BY MR. GREENFIELD: 25 Q. Good morning, Ms. Gutierrez.</p>	<p style="text-align: right;">Page 1694</p> <p>1 A. Good morning, Mr. Greenfield, is that right? 2 Q. It's Mr. Greenfield. I represent the Union. 3 A. Okay. 4 Q. Okay? 5 Did anyone at the Union try to improperly 6 influence your investigation into the matter? 7 A. No, not that I can recall. 8 Q. And when conducting an investigation, are there 9 different rules for different employees? 10 A. No, I don't believe so. 11 Q. Would you treat an investigation differently 12 because the complaint was made by a union executive 13 board member? 14 A. No. 15 MR. GREENFIELD: Pass the witness. 16 MR. HILL: No questions, your Honor. 17 THE COURT: Okay. Any need to reserve her 18 for a recall? 19 With that, you are excused as a witness. 20 Thank you for your testimony. 21 THE WITNESS: Thank you. 22 (The witness exited the courtroom.) 23 THE COURT: Southwest, do we have another 24 witness to call? 25 MR. McKEEBY: We do. Mike Sims.</p>

<p style="text-align: right;">Page 1695</p> <p>1 (The witness entered the courtroom.)</p> <p>2 THE COURT: Mr. Sims, you can come on up</p> <p>3 here and approach the witness box.</p> <p>4 Before you get into the box, can I have</p> <p>5 you raise your right hand. We're going to swear you</p> <p>6 in.</p> <p>7 (MIKE SIMS was duly sworn by the Clerk.)</p> <p>8 THE COURT: Okay. Now you can take a</p> <p>9 seat.</p> <p>10 THE WITNESS: Thank you, sir.</p> <p>11 THE COURT: And Mr. Sims, I ask all</p> <p>12 witnesses if they could help us keep some space</p> <p>13 between questions that the lawyers that ask you and</p> <p>14 your answers, and then ask the lawyers to keep space</p> <p>15 between your answer and their question.</p> <p>16 THE WITNESS: Yes, sir.</p> <p>17 THE COURT: That way we can keep a clean</p> <p>18 record and I can rule on any objections from the</p> <p>19 lawyers before you answer.</p> <p>20 THE WITNESS: Yes, sir.</p> <p>21 THE COURT: You can proceed, Mr. McKeeby.</p> <p>22 MR. McKEEBY: Thank you.</p> <p>23 DIRECT EXAMINATION</p> <p>24 BY MR. McKEEBY:</p> <p>25 Q. Will you please state your name for the record.</p>	<p style="text-align: right;">Page 1696</p> <p>1 A. Michael Sims. S-I-M-S.</p> <p>2 Q. How are you currently employed?</p> <p>3 A. I'm currently employed at Southwest Airlines as</p> <p>4 a senior director of in-flight operations.</p> <p>5 Q. How long have you been in that position?</p> <p>6 A. Since 2017.</p> <p>7 Q. What did you do before that?</p> <p>8 A. Regional director, in-flight operations.</p> <p>9 Q. Tell the jury, what's the difference between a</p> <p>10 senior director and a regional director?</p> <p>11 A. Well, a regional director, in that instance, I</p> <p>12 was managing flight attendant bases across the</p> <p>13 United States. At one point I had the eastern part</p> <p>14 of the United States, at another point I had the</p> <p>15 western part of the United States.</p> <p>16 I was promoted to senior director in 2017 where</p> <p>17 that encompassed the entire area of the United</p> <p>18 States for in-flight bases, which now are 11 bases,</p> <p>19 but back then it was 10.</p> <p>20 Q. When in 2017 did you receive that promotion?</p> <p>21 A. That was mid summer.</p> <p>22 Q. Okay. I asked that because I want to focus on</p> <p>23 your job prior to that time.</p> <p>24 And so am I right that prior to that time, you</p> <p>25 were a regional director?</p>
<p style="text-align: right;">Page 1697</p> <p>1 A. That is correct, sir.</p> <p>2 Q. I understand you explained a little bit about</p> <p>3 the breakdown and the difference between a senior</p> <p>4 and regional director.</p> <p>5 But as a regional director, can you generally</p> <p>6 describe your job duties to the jury.</p> <p>7 A. Yes, sir.</p> <p>8 Regional director primarily is focused with</p> <p>9 ensuring that our flight attendants are meeting</p> <p>10 company standards in terms of delivering customer</p> <p>11 service.</p> <p>12 So my job included insurance of the customer</p> <p>13 experience for the people that fly Southwest</p> <p>14 Airlines in terms of how our flight attendants</p> <p>15 deliver it.</p> <p>16 It also consisted of ensuring overall job</p> <p>17 performance of our flight attendants, and then also</p> <p>18 ensuring that our in-flight bases, which were</p> <p>19 scattered throughout the United States, were running</p> <p>20 effectively.</p> <p>21 Q. Have you ever been a flight attendant with</p> <p>22 Southwest Airlines?</p> <p>23 A. Yes, sir. I was hired as a flight attendant in</p> <p>24 November of 1996. Served as a flight attendant from</p> <p>25 1996 to June of 2007.</p>	<p style="text-align: right;">Page 1698</p> <p>1 Q. Were you a member of the Union during that time</p> <p>2 period?</p> <p>3 A. Yes, sir. I was a member of transport workers</p> <p>4 Union Local 556, as all flight attendants are.</p> <p>5 In addition, I was elected as a union officer</p> <p>6 in 2003. I was elected as executive board member at</p> <p>7 large, and at that point, I was appointed to run the</p> <p>8 union office, if you will, and process employee</p> <p>9 grievances.</p> <p>10 So I was full-time in the union from 2003</p> <p>11 through 2006. Excuse me, until April of 2006.</p> <p>12 Q. Thank you.</p> <p>13 Mr. Sims, it sounds like, given your</p> <p>14 background, you are pretty knowledgeable about Local</p> <p>15 556, I take it?</p> <p>16 A. Yes, sir.</p> <p>17 Q. I just kind of want to get some explanation so</p> <p>18 that the jury understands the relationship between</p> <p>19 Southwest Airlines and Local 556 in terms of their</p> <p>20 interactions.</p> <p>21 Can you just provide sort of a general</p> <p>22 description of that?</p> <p>23 A. Yes. Overall, the interactions between</p> <p>24 Southwest Airlines and Transport Workers Union Local</p> <p>25 556 is very professional and it's amicable.</p>

<p style="text-align: right;">Page 1699</p> <p>1 There are disagreements, as you can imagine</p> <p>2 when it comes to collective bargaining and</p> <p>3 collective bargaining agreements and their</p> <p>4 administration.</p> <p>5 But Southwest is very unique in the fact that</p> <p>6 we have been able to work with the union through the</p> <p>7 processes that allow us to resolve disputes through</p> <p>8 the good times and the bad times.</p> <p>9 Q. Fair enough.</p> <p>10 How about in terms of the structure of the two</p> <p>11 entities. Do they have the same, for example,</p> <p>12 policies and laws -- I mean policies and procedures?</p> <p>13 A. Oh, no, sir. It's important to note that TWU</p> <p>14 Local 556 and Southwest Airlines are separate</p> <p>15 entities.</p> <p>16 Q. What does that mean?</p> <p>17 A. Excuse me?</p> <p>18 Q. What do you mean by that?</p> <p>19 A. Well, by "separate entities," I mean that</p> <p>20 Southwest Airlines is the company that we know that</p> <p>21 operates aircraft and flies customers around the</p> <p>22 country.</p> <p>23 TWU Local 556 is a separate organization that</p> <p>24 has its own governance, has its own budget, has its</p> <p>25 own operating rules, bylaws, et cetera.</p>	<p style="text-align: right;">Page 1700</p> <p>1 What makes the two in common is while they are</p> <p>2 separate entities, TWU Local 556 is operated by</p> <p>3 Southwest Airlines employees.</p> <p>4 Q. Understood. Thank you for that clarification.</p> <p>5 As a regional director of in-flight operations,</p> <p>6 did you preside over something called a Step 2</p> <p>7 hearing?</p> <p>8 A. Yes, sir. At that time, I presided over the</p> <p>9 majority of them, if not all.</p> <p>10 Q. All of them within your region?</p> <p>11 A. Yes, sir. If not in the region, over the</p> <p>12 whole -- the entire group of bases. It just depends</p> <p>13 on where we were in terms of our org structure at</p> <p>14 that point.</p> <p>15 So we did some re-orgs and we were a little</p> <p>16 short-handed for a while. How is that?</p> <p>17 Q. Understood.</p> <p>18 How about the spring of 2017, did you preside</p> <p>19 over --</p> <p>20 A. Yes.</p> <p>21 Q. -- Step 2 meetings at that time?</p> <p>22 And we will get it, but you presided over</p> <p>23 Ms. Carter's Step 2 hearing?</p> <p>24 That is correct, yes, sir.</p> <p>25 MR. HILL: Running objection on relevance</p>
<p style="text-align: right;">Page 1701</p> <p>1 and 403.</p> <p>2 THE COURT: I will grant you that running</p> <p>3 objection.</p> <p>4 I will overrule it and you can answer the</p> <p>5 question and continue.</p> <p>6 BY MR. McKEEBY:</p> <p>7 Q. Before we get into the specifics of Ms. Carter,</p> <p>8 can you briefly explain to the jury what a Step 2</p> <p>9 hearing is?</p> <p>10 A. Well, a Step 2 hearing is what we would</p> <p>11 consider the beginning of an appeal process for an</p> <p>12 employee who has found themselves in disagreement</p> <p>13 with company action when it comes to issuing</p> <p>14 discipline.</p> <p>15 So under the Collective Bargaining Agreement,</p> <p>16 our contract with Transport Workers Union Local 556,</p> <p>17 we have an appeals process that allows decisions to</p> <p>18 be further reviewed and analyzed and checked for</p> <p>19 additional information.</p> <p>20 So the Step 2 hearing, we call it Step 2,</p> <p>21 because Step 1 is, Hey, I don't like or I disagree</p> <p>22 with this decision, so Step 1, I file for appeal.</p> <p>23 Step 2 is where the appeal is heard at my level</p> <p>24 to review what transpired at the in-flight base</p> <p>25 level by usually the decision made by base</p>	<p style="text-align: right;">Page 1702</p> <p>1 leadership.</p> <p>2 Q. Now, again, speaking generally, do you have any</p> <p>3 particular involvement with the grievance prior to</p> <p>4 the Step 2 hearing?</p> <p>5 A. No, sir.</p> <p>6 Q. I think I asked you, but were you involved in</p> <p>7 Ms. Carter's Step 2 hearing?</p> <p>8 A. I was involved in her Step 2 hearing, yes, sir.</p> <p>9 Q. What did you do, if anything, to prepare for</p> <p>10 the Step 2 hearing in Ms. Carter's case?</p> <p>11 A. It was pretty standard in terms of preparation.</p> <p>12 So we have a department in Southwest Airlines, it is</p> <p>13 our labor relations department. They are tasked</p> <p>14 with managing the administrative part of an appeal.</p> <p>15 So they sent me notice that Ms. Carter wanted</p> <p>16 to appeal her termination, so they sent me the</p> <p>17 information surrounding the circumstances.</p> <p>18 So that would be, you know, correspondence or</p> <p>19 notes or anything that had to do with the decision</p> <p>20 that they made at that level.</p> <p>21 So I reviewed that prior to going in and I</p> <p>22 reviewed her termination letter.</p> <p>23 Q. Okay. Did part of that -- part of the</p> <p>24 materials that you reviewed include the videos that</p> <p>25 we've discussed in this case, I will tell you?</p>

<p style="text-align: right;">Page 1703</p> <p>1 A. Yes, sir.</p> <p>2 Q. Did you watch the videos?</p> <p>3 A. I did not watch them prior to her meeting with</p> <p>4 me, but I was aware of them. I saw that they were</p> <p>5 stills. I received pictures of the videos and then</p> <p>6 saw the videos later.</p> <p>7 Q. Okay. That was part of the labor relations</p> <p>8 file that you mentioned?</p> <p>9 A. Yes, sir.</p> <p>10 Q. The still photos?</p> <p>11 A. Yes, sir. Screen shots.</p> <p>12 Q. Screen shots, sorry. Thank you.</p> <p>13 When did you review, or when did you watch the</p> <p>14 videos?</p> <p>15 A. Ah, somewhere during -- there is a 10-day</p> <p>16 process after our meeting, and that's when we have a</p> <p>17 decision time period. I saw it during that and also</p> <p>18 saw them in preparation for an arbitration that took</p> <p>19 place later.</p> <p>20 Q. All right. Well, then let's continue on the</p> <p>21 timeline before we get to that.</p> <p>22 So to kind of set the table, if you will,</p> <p>23 for -- where was Ms. Carter's Step 2 hearing? Where</p> <p>24 did it take place?</p> <p>25 A. We held the meeting at Southwest Airlines</p>	<p style="text-align: right;">Page 1704</p> <p>1 headquarters. We have designated conference rooms</p> <p>2 for those meetings, and she and her union</p> <p>3 representatives met us there.</p> <p>4 Q. In person?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Do you recall who her union representative --</p> <p>7 you said plural representatives, more than one?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Do you recall who that was?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Who?</p> <p>12 A. There was two. Becky Parker, P-A-R-K-E-R, and</p> <p>13 Beth Ross, R-O-S-S.</p> <p>14 Q. Okay. Did Carter present any documents during</p> <p>15 the Step 2 hearing?</p> <p>16 A. Yes, she did. She presented numerous</p> <p>17 documents.</p> <p>18 Q. Okay.</p> <p>19 MR. McKEEBY: If you can pull Exhibit 118.</p> <p>20 BY MR. McKEEBY:</p> <p>21 Q. Do you recognize this document, Mr. Sims?</p> <p>22 A. Yes, sir, I do.</p> <p>23 Q. Tell the jury what this is.</p> <p>24 A. What this is, is a list of the information that</p> <p>25 she provided for us in terms of the documents.</p>
<p style="text-align: right;">Page 1705</p> <p>1 And some of them were -- well, they were all</p> <p>2 provided by her. Some were articles from the</p> <p>3 Internet. Some were information that she felt was</p> <p>4 pertinent to her case. This is just a collective</p> <p>5 list of those documents.</p> <p>6 Q. Okay. And did she actually come to the meeting</p> <p>7 and present this packet to you?</p> <p>8 A. Yes, she did present a packet. Yes, that is</p> <p>9 correct.</p> <p>10 Q. And I think -- are there different -- this an</p> <p>11 index of 10 documents. Are there more than that?</p> <p>12 A. I think there are.</p> <p>13 Q. I do, too.</p> <p>14 So if you will go to 118.30, what is that</p> <p>15 document?</p> <p>16 A. That's a continuation of the previous list.</p> <p>17 Q. And what about 118.61, if you could pull that.</p> <p>18 A. Again, that is continuation of the previous two</p> <p>19 lists.</p> <p>20 Q. So more documents?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Okay. And, I'm sorry, I forgot if you have</p> <p>23 done this, but can you just kind of generally</p> <p>24 describe the content?</p> <p>25 I mean, it is a long, lengthy exhibit, and I</p>	<p style="text-align: right;">Page 1706</p> <p>1 don't want to walk through step-by-step with you.</p> <p>2 But can you just describe generally to the jury what</p> <p>3 this packet of documents consisted of?</p> <p>4 A. Yes. During a Step 2 meeting -- and this is,</p> <p>5 again, when they are appealing, in Ms. Carter's</p> <p>6 case, the termination -- we encouraged them to bring</p> <p>7 any information that they feel is pertinent or may</p> <p>8 be information that wasn't considered or information</p> <p>9 that would provide additional context.</p> <p>10 So in Ms. Carter's case, she brought to me</p> <p>11 numerous documents that she believed would be</p> <p>12 helpful to me in making a decision in her favor.</p> <p>13 So it's pretty typical that the union and the</p> <p>14 grievant bring additional information or</p> <p>15 information, again, to provide additional context.</p> <p>16 So this gave me an opportunity to learn a</p> <p>17 little bit more about her point of view and her</p> <p>18 thoughts on why she felt that her termination was</p> <p>19 not reasonable.</p> <p>20 Q. And during the Step 2 hearing, did you go over</p> <p>21 the different documents that she provided?</p> <p>22 A. Well, there were numerous documents, so what we</p> <p>23 agreed was that we would label them so I could keep</p> <p>24 track of them, and then I committed to Ms. Carter</p> <p>25 that I would look at them after the meeting.</p>

<p style="text-align: right;">Page 1707</p> <p>1 Because I felt that the documents were</p> <p>2 important to her, therefore, they were important to</p> <p>3 me, but I also wanted to hear her speak and tell me</p> <p>4 her point of view.</p> <p>5 And there just wasn't enough time to read 30</p> <p>6 documents because some of them were two or three</p> <p>7 pages each. So I did review them after our meeting</p> <p>8 a couple of days after we met.</p> <p>9 Q. Did you go over the documents in terms of</p> <p>10 asking Ms. Carter what they were?</p> <p>11 A. Yes.</p> <p>12 Q. And that was during the Step 2 grievance?</p> <p>13 A. Yes, sir.</p> <p>14 So how it worked was she would hand me a</p> <p>15 document and say, This is an article on the AFL-CIO</p> <p>16 as an example.</p> <p>17 And then I would say, Okay, let's mark this as</p> <p>18 an AFL-CIO document.</p> <p>19 And then we would set it aside and then move on</p> <p>20 to the next one and the next one after that.</p> <p>21 MR. McKEEBY: Okay. You can take that</p> <p>22 down.</p> <p>23 BY MR. McKEEBY:</p> <p>24 Q. Was there anything else with Southwest Airlines</p> <p>25 at the Step 2 hearing?</p>	<p style="text-align: right;">Page 1708</p> <p>1 A. Yes. When we conduct Step 2 hearings, we have</p> <p>2 a representative from our labor relations</p> <p>3 department, as they act as the case manager, if you</p> <p>4 will.</p> <p>5 And in this case we had a manager by the name</p> <p>6 of Melissa Burdine, B-U-R-D-I-N-E.</p> <p>7 Q. And she's with labor relations?</p> <p>8 A. She was. She has since left the company.</p> <p>9 Q. What was her role at the Step 2 hearing?</p> <p>10 A. Her role was to ensure that the documents were</p> <p>11 present. She took notes and then she also provided</p> <p>12 counsel to me after the meeting.</p> <p>13 MR. McKEEBY: If we could go to</p> <p>14 Exhibit 119.</p> <p>15 MR. HILL: Objection. The ones discussed</p> <p>16 this morning.</p> <p>17 THE COURT: On 119?</p> <p>18 MR. McKEEBY: Should I move to admit</p> <p>19 first?</p> <p>20 THE COURT: Yes.</p> <p>21 MR. McKEEBY: Move to admit and publish</p> <p>22 Exhibit 119.</p> <p>23 THE COURT: Okay. I have the objections</p> <p>24 from this morning. I'm overruling those and</p> <p>25 admitting 119.</p>
<p style="text-align: right;">Page 1709</p> <p>1 You can publish.</p> <p>2 (The referred-to document was admitted</p> <p>3 into evidence as Trial Exhibit 119.)</p> <p>4 BY MR. McKEEBY:</p> <p>5 Q. The first page of 119 is an email, correct?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Can you describe to the jury what that email</p> <p>8 is?</p> <p>9 A. This is an email from the labor relations</p> <p>10 manager, Melissa Burdine, sending it to me on</p> <p>11 April 6th -- that was a couple of days after the</p> <p>12 hearing -- her notes that she typed during our</p> <p>13 hearing.</p> <p>14 And she just mentioned here that -- and this</p> <p>15 did happen -- her laptop that she was working on at</p> <p>16 the time, it powered down for a few minutes, but she</p> <p>17 was able to plug it in. We took about a three- or</p> <p>18 four-minute break while she plugged it in.</p> <p>19 And then "I will send the labor recap to you</p> <p>20 next week."</p> <p>21 Q. And then if you go to the next page, are those</p> <p>22 her notes?</p> <p>23 A. Yes.</p> <p>24 MR. McKEEBY: You can take that down for</p> <p>25 now.</p>	<p style="text-align: right;">Page 1710</p> <p>1 BY MR. McKEEBY:</p> <p>2 Q. Okay. You go through the documents. You</p> <p>3 indicated that she handed them to you and that you</p> <p>4 then later reviewed them.</p> <p>5 What did you do next during the Step 2</p> <p>6 grievance hearing?</p> <p>7 A. After the hearing, or are we still during?</p> <p>8 Q. No, no, no. Still in the hearing. You have</p> <p>9 gone through the documents. I understand you didn't</p> <p>10 go through each one, but there was a labeling</p> <p>11 process during the hearing, as I understood it?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. So what happened next at the hearing?</p> <p>14 A. At the hearing it was a pretty typical hearing.</p> <p>15 And what I did was I asked Ms. Carter why she felt</p> <p>16 that the termination was unjust or why she believed</p> <p>17 that our company was making a mistake.</p> <p>18 Q. What do you recall her saying in response to</p> <p>19 that question?</p> <p>20 A. Well, she was in a dispute with Transport</p> <p>21 Workers Union Local 556. And then during the --</p> <p>22 after we went through the exhibits, we had more</p> <p>23 discussion where she gave me her point of view of</p> <p>24 why she felt that she wanted her job back.</p> <p>25 Q. What do you recall generally her saying about</p>

<p style="text-align: right;">Page 1711</p> <p>1 that?</p> <p>2 A. Well, she asked me, Can I have my job back?</p> <p>3 Q. During the Step 2 hearing, did she admit</p> <p>4 sending the video messages to Ms. Stone?</p> <p>5 A. Yes. There was never any dispute between us</p> <p>6 that they were sent and she did acknowledge that she</p> <p>7 sent them.</p> <p>8 MR. McKEEBY: 119 again.</p> <p>9 BY MR. McKEEBY:</p> <p>10 Q. Was Ms. Carter apologetic at all during the</p> <p>11 Step 2 hearing?</p> <p>12 A. I think she was -- she appeared to be</p> <p>13 remorseful at that hearing and said that she had</p> <p>14 gone a little over the top.</p> <p>15 MR. McKEEBY: Let's look at 119.5. I'm</p> <p>16 sorry. 15, I think. Yes, 15. It's at the bottom</p> <p>17 here where it says "the last three weeks," the last</p> <p>18 bullet. "The last three weeks." There we go.</p> <p>19 BY MR. McKEEBY:</p> <p>20 Q. Do you see that where it says "the last three</p> <p>21 weeks"? Can you read that to the jury, Mr. Sims?</p> <p>22 A. Yeah, starting -- okay.</p> <p>23 "The last three weeks I could have made a</p> <p>24 better choice regarding Audrey. I don't know why</p> <p>25 they won't let us know. This has nothing to do with</p>	<p style="text-align: right;">Page 1712</p> <p>1 Southwest. This was something about the Women's</p> <p>2 March, because we paid for it and they didn't say</p> <p>3 anything to us before they went."</p> <p>4 Q. Is that the -- that's not testimony, she wasn't</p> <p>5 under oath, but is that the statement that you were</p> <p>6 recalling a moment ago?</p> <p>7 A. Yes.</p> <p>8 MR. McKEEBY: And if you go to 119.16.</p> <p>9 About halfway down, where it says "cc." Yes, that's</p> <p>10 the one.</p> <p>11 BY MR. McKEEBY:</p> <p>12 Q. Is this where she's asking for her job back?</p> <p>13 A. Yes. She directly asked me, Can I have my job</p> <p>14 back, because I do love my job and company.</p> <p>15 Q. And did you also have a discussion during the</p> <p>16 Step 2 hearing about her sending other Facebook</p> <p>17 messages to other Southwest employees?</p> <p>18 A. Yes.</p> <p>19 Q. What do you recall about that?</p> <p>20 A. I recall that she was --</p> <p>21 MR. HILL: Objection, relevance.</p> <p>22 THE COURT: Overruled.</p> <p>23 You can answer.</p> <p>24 THE WITNESS: I recall that she was very</p> <p>25 passionate about her beliefs and her values, and she</p>
<p style="text-align: right;">Page 1713</p> <p>1 wanted to share those beliefs and values with other</p> <p>2 people.</p> <p>3 MR. McKEEBY: Let's look at 119.17. The</p> <p>4 next page, I guess. The one that says "cc" about</p> <p>5 midway through, "I promise."</p> <p>6 THE WITNESS: Yes, sir.</p> <p>7 BY MR. McKEEBY:</p> <p>8 Q. Does that refresh your recollection as to what</p> <p>9 was said about further Facebook posts?</p> <p>10 A. Yes.</p> <p>11 Q. I'm sorry, messages?</p> <p>12 A. Yes.</p> <p>13 She's saying here "I promise it will never</p> <p>14 happen again. If they don't like what's said, I</p> <p>15 won't do it."</p> <p>16 Q. And then at the top of the page, where it says</p> <p>17 "BP," who do you know who that is?</p> <p>18 A. BP are the initials for Becky Parker, who was</p> <p>19 one of her union representatives.</p> <p>20 MR. McKEEBY: And if you could blow that</p> <p>21 up.</p> <p>22 BY MR. McKEEBY:</p> <p>23 Q. And that very last line of her question is</p> <p>24 what?</p> <p>25 A. "Can I trust" -- let me back up.</p>	<p style="text-align: right;">Page 1714</p> <p>1 This is where her union representative turns to</p> <p>2 Ms. Carter and asks, "Can I trust you won't do it</p> <p>3 again?"</p> <p>4 Q. Okay. And what did she say?</p> <p>5 A. "Yes. I won't."</p> <p>6 MR. McKEEBY: You can take that down now.</p> <p>7 BY MR. McKEEBY:</p> <p>8 Q. About how long was the Step 2 hearing?</p> <p>9 A. I think it was between 90 minutes and almost</p> <p>10 two hours.</p> <p>11 Q. So you mentioned something earlier about 10</p> <p>12 days. What was the significance of that?</p> <p>13 A. Well, as I mentioned earlier, Southwest</p> <p>14 Airlines and the flight attendant union have an</p> <p>15 agreement, and in that agreement, which is the</p> <p>16 contract, there is an appeal process that is laid</p> <p>17 out.</p> <p>18 So we start with Step 1. Then we have Step 2.</p> <p>19 But then there are days that are designated between</p> <p>20 those steps for the company or the union to gather</p> <p>21 additional information.</p> <p>22 So in this case, we take, in Step 2, 10</p> <p>23 business days afterwards to review all of the</p> <p>24 information, and then we have that time period to</p> <p>25 formulate our decision back to the union.</p>

<p style="text-align: right;">Page 1715</p> <p>1 Q. I think you have alluded to a couple of things.</p> <p>2 But in this case, what did you do during that</p> <p>3 10-day period?</p> <p>4 A. During that 10-day period, I reviewed all of</p> <p>5 the documents that Ms. Carter supplied. I conferred</p> <p>6 with labor relations and, you know, read through</p> <p>7 some other things about -- just on my own about how</p> <p>8 things were in the current state, you know, of the</p> <p>9 times. And that's how I came to make my decision.</p> <p>10 Q. When you say you conferred with labor</p> <p>11 relations, do you recall with whom you conferred?</p> <p>12 A. That would have been the manager, Melissa</p> <p>13 Burdine. Possibly her leader at the time who has</p> <p>14 retired, Tammy Schaffer.</p> <p>15 Q. Okay. And did I understand your testimony</p> <p>16 earlier correctly that you viewed the videos during</p> <p>17 that 10-day window?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Why did you do that?</p> <p>20 A. I just wanted to know.</p> <p>21 Q. What was your reaction when you saw the videos?</p> <p>22 By that time you had gone through the Step 2</p> <p>23 hearing, you had heard from Ms. Carter, correct?</p> <p>24 What was your reaction?</p> <p>25 A. The videos were very impactful to me. I hated</p>	<p style="text-align: right;">Page 1716</p> <p>1 them. They were ugly. They were disgusting.</p> <p>2 That's just the tip of the iceberg of how it</p> <p>3 made me feel. It made me feel sick.</p> <p>4 Q. Mr. Sims, I take it that part of the review</p> <p>5 process at the Step 2 hearing involves your</p> <p>6 assessment as to the decision that in this case</p> <p>7 Mr. Schneider made?</p> <p>8 A. Yes.</p> <p>9 Q. And did you agree with that decision?</p> <p>10 A. I agreed with Mr. Schneider's decision.</p> <p>11 Ms. Carter's actions under the Southwest</p> <p>12 Airlines policy, procedures and our overall mission,</p> <p>13 she was -- she was terminated for good reason.</p> <p>14 Q. Now, at the end of the Step 2 hearing, what</p> <p>15 options did you have?</p> <p>16 A. The agreement or the contract we have with the</p> <p>17 Union gives me three options at the end of a Step 2.</p> <p>18 The first option is I can just accept the</p> <p>19 grievance, and just say, Union, you were correct, we</p> <p>20 are going to restore her employment as if nothing</p> <p>21 happened.</p> <p>22 The second option I have is to offer a</p> <p>23 settlement, meaning that in most cases we will</p> <p>24 return them back to work but with some conditions,</p> <p>25 you know.</p>
<p style="text-align: right;">Page 1717</p> <p>1 And then the final option I have is what we</p> <p>2 call -- I have the authority to deny the grievance,</p> <p>3 which simply means it sends it to the next stage in</p> <p>4 the process, which would be a Step 3.</p> <p>5 Q. And which of these options did you arrive at?</p> <p>6 A. After careful thought, I offered a settlement.</p> <p>7 Q. And why did you -- what was the -- can you just</p> <p>8 describe generally, I will show you the document in</p> <p>9 a minute, but can you describe generally what you</p> <p>10 mean by that. What did you do?</p> <p>11 A. Ms. Carter asked me if she could --</p> <p>12 MR. HILL: Objection.</p> <p>13 THE COURT: I'll overrule.</p> <p>14 You can answer.</p> <p>15 MR. HILL: And the settlement</p> <p>16 communication.</p> <p>17 THE COURT: Yes, overruled.</p> <p>18 You can answer.</p> <p>19 BY MR. McKEEBY:</p> <p>20 Q. Explain generally what the proposal was, if you</p> <p>21 will.</p> <p>22 A. Well, Ms. Carter asked me for her job back, and</p> <p>23 I decided to help her get her job back.</p> <p>24 Q. And why did you do that?</p> <p>25 A. I wanted to give her another chance.</p>	<p style="text-align: right;">Page 1718</p> <p>1 Q. You said you agreed with the decision. Why did</p> <p>2 you decide to give her her job back?</p> <p>3 A. Well, she was fired for all of the right</p> <p>4 reasons, but the appeals process allows us to step</p> <p>5 back a little bit and review.</p> <p>6 So while she was fired for all of the right</p> <p>7 reasons, she convinced me in the Step 2 that she</p> <p>8 would be different. And I looked at the fact that</p> <p>9 she was a long-term employee, she had a good</p> <p>10 employee record, and I just, at the end of the day,</p> <p>11 wanted to give her another chance.</p> <p>12 Q. And I think in the context of this case, we</p> <p>13 have been referring to something called the last</p> <p>14 chance agreement. Is that the proposal to which you</p> <p>15 are referring?</p> <p>16 A. Yes, sir.</p> <p>17 MR. McKEEBY: Can you pull up Exhibit 40?</p> <p>18 It's in evidence.</p> <p>19 BY MR. McKEEBY:</p> <p>20 Q. Can you identify this document for the jury?</p> <p>21 A. Yes, sir. This is the last chance agreement</p> <p>22 that I authorized to be offered to Ms. Carter.</p> <p>23 Q. And is this the same -- is this a form that you</p> <p>24 had used in other cases?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 1719</p> <p>1 Q. Let's kind of go over the terms so that the 2 jury understands. 3 The first bullet -- I'm going to have them blow 4 it up for you to make it easier to read. 5 A. Thank you. 6 Q. You are welcome. 7 Just explain to the jury what that means. 8 A. Well, this was me granting Ms. Carter's 9 request, and the company is going to reinstate her 10 employment, give her her job back. 11 Q. What does "no loss of seniority" mean? 12 A. What that means is, in the airline world or the 13 industrial world, if you will, where there is union 14 agreements, how we schedule people for their work is 15 based on seniority, or their length of service. 16 So they are able to bid for schedules or bid 17 for vacation, or get other possible other things 18 based on their length of service or their seniority. 19 So in this case, we didn't ding her, if you 20 will, with her seniority. Her seniority was 21 restored, or left status quo, excuse me. 22 Q. Okay. The next bullet says, "You will receive 23 Konop pay." 24 What does that mean? 25 A. What that meant was we were not offering any</p>	<p style="text-align: right;">Page 1720</p> <p>1 back pay as if she had stayed at the company and was 2 working. 3 I made that decision because in reviewing her 4 work history, she was not working that much. And 5 also, this was just another way of just saying, 6 we're going to agree to there will be Konop pay. 7 She really wasn't eligible for back pay anyway, 8 since there was no work completed. 9 Q. What do you mean, no work completed? 10 A. Flight attendants have a lot of flexibility to 11 modify their schedule and they can work pretty much 12 as they want in the guardrails of federal -- of 13 aviation regulations, or they can work as little as 14 they want. 15 So at that period, Ms. Carter wasn't working 16 enough to warrant a check, if you will, for coming 17 back to work. 18 MR. McKEEBY: Okay. Let's tick down to 19 the next bullet. 20 BY MR. McKEEBY: 21 Q. What does that mean? 22 A. So I reduced her termination to a 30-day 23 suspension. So what that meant was I reinstated her 24 employment, but we had to reconcile this event 25 because she violated company policy. She did some</p>
<p style="text-align: right;">Page 1721</p> <p>1 things that were warranting termination of 2 employment. 3 So just to reconcile this under our work 4 conduct rules, I added we would just convert that 5 termination to a 30-day suspension, which is pretty 6 innocuous here because she had already served that 7 suspension, if you will. So it was just something 8 that would be reflected in her file, her employment 9 file. 10 MR. McKEEBY: Let's tick down to the next 11 one. 12 BY MR. McKEEBY: 13 Q. Can you just tell the jury what that means? 14 A. Yes. We pay -- most airlines or other 15 employers pay by the hour, so you are paid 40 hours 16 a week, for example. 17 We use a term called TFP, trips for pay. 18 Not necessary to know all of that, what that 19 means. But what we do is when somebody is 20 terminated, they accrue vacation time. 21 So once somebody is terminated, we know they 22 are not going to take that vacation time, so we just 23 pay out that vacation in a check to reconcile it. 24 So on return to work in this case, we gave her 25 the option, you can keep that money we paid to you</p>	<p style="text-align: right;">Page 1722</p> <p>1 for your earned vacation, but if you want to 2 reinstate those vacation days, then you will just 3 pay us back and we will put that back into your 4 vacation bank. 5 Q. Thank you, Mr. Sims. 6 MR. McKEEBY: Let's tick down to the next 7 bullet. 8 BY MR. McKEEBY: 9 Q. What does that mean? 10 A. "Any record improvement will be delayed for a 11 period of time equal to the time from termination." 12 Okay. So in the flight attendant contract, we 13 have a section that administers our attendance 14 policy. 15 So in layman's terms when a flight attendant 16 calls in sick and that is not covered by a doctor's 17 note, we assess them points. Okay? And they have 18 an ongoing record of attendance points that they 19 accrue for absenteeism. 20 In this case, what we did was when we reinstate 21 somebody, we always restart the record improvement 22 clock, which means that when you accrue points, you 23 have the ability several times through the year to 24 have those points removed. And we call that record 25 improvement.</p>

<p style="text-align: right;">Page 1723</p> <p>1 So this is pretty simple here. All this is, is</p> <p>2 clarifying that we will not use that record</p> <p>3 improvement mechanism for the time that she was gone</p> <p>4 because there is really nothing to improve, since</p> <p>5 she was gone.</p> <p>6 Q. Okay.</p> <p>7 MR. McKEEBY: Let's go to the next one.</p> <p>8 BY MR. McKEEBY:</p> <p>9 Q. So you, if I understand correctly, you were</p> <p>10 going to have her sign an attachment?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Can you generally describe that attachment?</p> <p>13 A. It's a -- it's a general legal release, and it</p> <p>14 is a way to put this issue to bed. It is we sign</p> <p>15 the release and we are done.</p> <p>16 Q. Was that common in the context of last chance</p> <p>17 agreements you had provided to other employees?</p> <p>18 A. Yes.</p> <p>19 Q. Let me ask you this. Would the release have</p> <p>20 still permitted -- if she had signed the release,</p> <p>21 would she still have been permitted to pursue a</p> <p>22 claim against the Union Local 556?</p> <p>23 MR. HILL: Objection, calls for a legal</p> <p>24 conclusion.</p> <p>25 THE COURT: I will allow it if he has</p>	<p style="text-align: right;">Page 1724</p> <p>1 personal knowledge.</p> <p>2 THE WITNESS: I'm not sure.</p> <p>3 BY MR. McKEEBY:</p> <p>4 Q. Let me help you.</p> <p>5 MR. McKEEBY: Let's go to 40.3, and we</p> <p>6 will flip back to this.</p> <p>7 BY MR. McKEEBY:</p> <p>8 Q. Paragraph 2. Can you just take a look at the</p> <p>9 first -- look at how the -- what parties are being</p> <p>10 released. The first is Southwest Airlines, and what</p> <p>11 is AirTran?</p> <p>12 A. AirTran is a former airline that was based in</p> <p>13 Atlanta, Georgia, that Southwest Airlines acquired</p> <p>14 in 2010, and we merged the AirTran operations and</p> <p>15 employees into Southwest Airlines.</p> <p>16 Q. So the Union is not mentioned here, correct?</p> <p>17 A. No, sir.</p> <p>18 MR. McKEEBY: Let's go back to 40.1. I</p> <p>19 forgot what bullet we were on. Maybe -- yes.</p> <p>20 BY MR. McKEEBY:</p> <p>21 Q. The "in addition." What does -- can you</p> <p>22 explain to the jury what that means?</p> <p>23 A. This was intended to make it crystal clear that</p> <p>24 moving forward, you need to comply with our company</p> <p>25 policies.</p>
<p style="text-align: right;">Page 1725</p> <p>1 "Any future violation of the Southwest Airlines</p> <p>2 workplace bullying and hazing policing policy,</p> <p>3 social media policy, or harassment, sexual</p> <p>4 harassment, discrimination and retaliation policy</p> <p>5 will result in termination."</p> <p>6 So we wanted to have that in there to make it</p> <p>7 very crystal clear our expectations moving forward.</p> <p>8 Q. And she had committed during the Step 2 hearing</p> <p>9 that she wouldn't do it, correct?</p> <p>10 A. Yes, that is correct. She told me she wouldn't</p> <p>11 do this anymore.</p> <p>12 Q. Now, Ms. Carter -- if Ms. Carter has expressed</p> <p>13 concerns that the company could terminate her</p> <p>14 employment based on previous Facebook messages that</p> <p>15 might have been uncovered, do you think those</p> <p>16 concerns are legitimate?</p> <p>17 A. No.</p> <p>18 Q. Why not?</p> <p>19 A. Well, the reason is, is the last chance</p> <p>20 agreement is designed to draw the line and move</p> <p>21 forward. Because you will see in the last chance</p> <p>22 agreement, just reading it, it is designed to put</p> <p>23 all of this to bed and call this resolved. So there</p> <p>24 would be no need to even look to previous things</p> <p>25 because we are past that, we are moving forward.</p>	<p style="text-align: right;">Page 1726</p> <p>1 Q. Well, let's say someone had raised a complaint</p> <p>2 about an old Facebook message that they had</p> <p>3 uncovered and brought that to the company's</p> <p>4 attention and it found its way to you.</p> <p>5 How would that -- how would this agreement --</p> <p>6 if she had signed it, of course -- how would that</p> <p>7 have played out in that context?</p> <p>8 A. It would have been pretty simple, from my point</p> <p>9 of view, because we have a -- we refer to the last</p> <p>10 chance agreement and its intent, and it was to move</p> <p>11 forward, not to look backwards.</p> <p>12 Q. All right. And did Ms. Carter lose her rights</p> <p>13 under the Collective Bargaining Agreement to grieve</p> <p>14 any discipline that she thought was unfair if she</p> <p>15 had signed this agreement?</p> <p>16 A. She did not release any rights under the</p> <p>17 Collective Bargaining Agreement.</p> <p>18 So that appeals process that I described, you</p> <p>19 know, the Step 1, Step 2, that remains as part of</p> <p>20 her ability to disagree or dispute any future</p> <p>21 conflicts.</p> <p>22 Q. Okay. Just for the sake of completeness, let's</p> <p>23 go to the next -- or the remaining bullets. We will</p> <p>24 kind of handle this somewhat quickly.</p> <p>25 What is the next one on the list?</p>

<p style="text-align: right;">Page 1727</p> <p>1 A. "Prior to reinstatement, you will be required 2 to meet with in-flight operations director Mike 3 Sims." 4 Q. Who is that? 5 A. That would be yours truly. 6 Q. What would -- what were you hoping to 7 accomplish with another meeting? 8 A. My intent there was to bring her back to my 9 office in Dallas with her union representatives, 10 welcome her back, and help set her course to move 11 forward. 12 Q. Okay. What about the next bullet about the 24 13 months, what does that mean? 14 A. It gave a life span to this document, the last 15 chance agreement. 16 So we were going to put this in her file so 17 everybody knew about the -- everybody who had a 18 business of need to know -- of her last chance 19 agreement. And then at the end of the 24 months, we 20 are done and it was -- it would be removed and 21 pulled out. 22 Q. Removed -- I'm sorry? 23 A. Removed from her file, if she requested it. 24 Q. What is the next bullet? 25 A. A pretty standard statement on criminal</p>	<p style="text-align: right;">Page 1728</p> <p>1 history. That is, in the airline industry, 2 safety-sensitive employees are required to have a 3 10-year background check. 4 In her case, it wasn't necessary, because she 5 was not -- she was not an inactive employee, so 6 there was no need, but that is there in case that 7 the need comes up, it's required by the -- by the 8 Federal Government. 9 Q. Understood. 10 The next bullet looks like just an 11 administrative process in terms of -- 12 A. Yeah. We give their company ID back to them. 13 And then "contacting crew planning." That is 14 our unit that builds work schedules. So we would 15 ask her to contact the crew planning so they could 16 build her work schedule to get her back started to 17 work. 18 Q. Okay. And then what is the significance of the 19 next bullet, the grievance, I guess, that's the 20 union grievance being withdrawn? 21 A. "The grievance regarding your termination will 22 be withdrawn and dismissed." 23 This again is designed to further reconcile 24 this issue and to have an understanding with all of 25 the parties, the Union and the company, that this</p>
<p style="text-align: right;">Page 1729</p> <p>1 grievance has reached its conclusion, so it's -- 2 terminated -- it's withdrawn. 3 Q. And then the last bullet, I guess that just 4 kind of restates the settlement agreement that you 5 referenced? 6 A. Yes, sir. That is just a summary of the 7 following pages, which was the settlement agreement 8 that states that the grievant is releasing the 9 company, Southwest Airlines, and is going to 10 discharge Southwest Airlines from claims that she 11 may have had then or anything that may have 12 resolved -- I mean arisen from her termination. 13 So it's a pretty standard summary. 14 MR. McKEEBY: Okay. You can take that 15 down. 16 BY MR. McKEEBY: 17 Q. Did you ever have any conversations with 18 Ms. Carter about the agreement to reinstate her? 19 A. No, sir. Our -- our agreement with the Union 20 is -- under the Collective Bargaining Agreement, is 21 the Union is her agent that represents her 22 throughout the grievance process. 23 And we do that to ensure fairness. 24 So I never had any direct conversations with 25 her because it wasn't -- she had union</p>	<p style="text-align: right;">Page 1730</p> <p>1 representatives that were representing her. And had 2 she wanted to have conversations with me, she could 3 have asked her union. We could have arranged that. 4 Because we want to have union in the room, company 5 in the room at all times. 6 So I never had any conversations with her. 7 Pretty standard. 8 Q. Has that happened before in the context of last 9 chance agreements? 10 A. Yes. 11 Q. There have been questions, and then that 12 process that you just described occurred? 13 A. Yes. Many times during a last chance 14 agreement, we will get an inquiry from the union 15 wanting -- most of the time it's clarification, but 16 other times they may want to modify or propose 17 changing the language, if you will. 18 Q. So how did the agreement get to Ms. Carter, if 19 you know? 20 A. Typical process is our labor relations 21 department, in this instance, it was the manager, 22 Melissa Burdine, sent it directly to the Union for 23 them to review with Ms. Carter. 24 Q. Mr. Sims, what was your expectation with 25 respect to whether or not Ms. Carter would sign the</p>

<p style="text-align: right;">Page 1731</p> <p>1 last chance agreement?</p> <p>2 A. I thought she was going to sign it.</p> <p>3 Q. Why did you think that?</p> <p>4 A. She was very compelling when we met and she</p> <p>5 asked me for her job back. And she made commitments</p> <p>6 to her union and she made commitments in my presence</p> <p>7 that she wouldn't do this anymore.</p> <p>8 And I took it at face value and I thought, I'm</p> <p>9 going to give her another chance. Because you</p> <p>10 generally don't get chances or a do-over when you</p> <p>11 send videos of aborted fetuses to people.</p> <p>12 So I thought, okay, this is a risk, but I'm</p> <p>13 going to offer her her job back. And I was -- I was</p> <p>14 very convinced that not only would she get her job</p> <p>15 back, it would put this to bed, this whole issue.</p> <p>16 Q. I take it at some point you found out that she</p> <p>17 declined the last chance agreement.</p> <p>18 A. Yes, sir. Yes, sir.</p> <p>19 Q. What was your reaction when you found that out?</p> <p>20 A. I remember looking at my email and seeing a</p> <p>21 message that she had declined, and I sat back in my</p> <p>22 chair. I was floored, to say the least. I was</p> <p>23 shocked. Because this -- this case was so unique</p> <p>24 and there was so much at stake because of the level</p> <p>25 of harassment, I thought, my goodness, she will take</p>	<p style="text-align: right;">Page 1732</p> <p>1 her job back because this is what she wants and we</p> <p>2 can have a do-over.</p> <p>3 And when she didn't take her job back, I was</p> <p>4 beyond surprised.</p> <p>5 Q. Did you have any next steps to do when you</p> <p>6 found that out? Was there anything else in the</p> <p>7 process that you needed to complete?</p> <p>8 A. No, sir. My role was complete because when she</p> <p>9 declined -- because she has -- as I had my options</p> <p>10 to offer resolution, she has options as well under</p> <p>11 her Collective Bargaining Agreement to process</p> <p>12 through the grievance process. So my role there was</p> <p>13 complete.</p> <p>14 Q. Mr. Sims, did you base any decision in</p> <p>15 connection with Ms. Carter's employment on the fact</p> <p>16 that she was a Christian?</p> <p>17 A. No.</p> <p>18 Q. Did you hold that against her in any way?</p> <p>19 A. Absolutely not.</p> <p>20 Q. Prior to the Step 2 hearing process, were you</p> <p>21 aware that Ms. Carter was what we called in the</p> <p>22 parlance of this case a union objector?</p> <p>23 A. I did not know she was a union objector.</p> <p>24 Q. Do you know -- did you know at that time what</p> <p>25 that meant?</p>
<p style="text-align: right;">Page 1733</p> <p>1 A. I do.</p> <p>2 Q. What was your -- let me ask you this: Were you</p> <p>3 aware of something called the recall process?</p> <p>4 A. Yes, I was aware of that.</p> <p>5 Q. What -- what -- what was your understanding of</p> <p>6 the recall process?</p> <p>7 A. Well, as I mentioned earlier, Southwest</p> <p>8 Airlines and TWU are separate entities. And</p> <p>9 Transport Workers Union is governed by elected</p> <p>10 officers and they have their own set of bylaws and</p> <p>11 constitution.</p> <p>12 And their constitution has a section where if</p> <p>13 they want to recall an officer, if you will, or, you</p> <p>14 know, there is a mechanism for them to go through</p> <p>15 this process as detailed in the TWU constitution to</p> <p>16 recall one or more officers.</p> <p>17 So at that point, that process was underway.</p> <p>18 Q. And prior to the Step 2 hearing that you have</p> <p>19 described, were you aware of Ms. Carter's</p> <p>20 involvement in that recall process?</p> <p>21 A. No.</p> <p>22 Q. Now. During the Step 2 hearing, do I</p> <p>23 understand correctly that you did become aware of</p> <p>24 some of Ms. Carter's issues with union leadership?</p> <p>25 A. Yes. She told me that she had been formally</p>	<p style="text-align: right;">Page 1734</p> <p>1 objecting to the Union since 2013, her union</p> <p>2 involvement and required membership.</p> <p>3 Q. What does that mean?</p> <p>4 A. Well, Southwest Airlines and the Union have</p> <p>5 what we call a closed shop. That means that when</p> <p>6 you become a Southwest Airlines flight attendant,</p> <p>7 you fall under the Collective Bargaining Agreement</p> <p>8 and you are represented by the Union.</p> <p>9 The law -- I'm not a lawyer, by the way, so --</p> <p>10 but the law does require -- excuse me -- does allow</p> <p>11 people to object and opt out of union involvement.</p> <p>12 And Ms. Carter had let me know that she was an</p> <p>13 objector and was not a member, per se, as most of</p> <p>14 the other flight attendants were members. Not all.</p> <p>15 Q. And did her status as an objector or her</p> <p>16 support of the recall process have anything to do</p> <p>17 with any decision you made with respect to handling</p> <p>18 her grievance?</p> <p>19 A. No, it did not at all.</p> <p>20 Q. Mr. Sims, are you Christian?</p> <p>21 A. I am.</p> <p>22 Q. What church do you go to?</p> <p>23 A. I'm a member of First Baptist Church in</p> <p>24 Midlothian, Texas.</p> <p>25 Q. And can you just very briefly describe your</p>

<p style="text-align: right;">Page 1735</p> <p>1 personal beliefs regarding abortion to the jury. 2 A. I am -- I'm pro life and very sympathetic and 3 compassionate to people that have been through what 4 Ms. Carter told me she had gone through because I am 5 very saddened. I'm saddened by abortion. 6 MR. McKEEBY: Your Honor, can we have a 7 quick sidebar? 8 THE COURT: You may. 9 (Thereupon, the following proceedings were 10 had at sidebar:) 11 MR. McKEEBY: I have been requested to 12 make an offer of proof on the arbitration award. 13 So what I would propose doing is asking a 14 few preliminary questions, and then have them object 15 to the award, and then we do an offer of proof. 16 THE COURT: Outside the jury? 17 MR. McKEEBY: Outside the jury. 18 THE COURT: So that makes sense because 19 it's almost time for our break. 20 So I will let you ask those predicate 21 questions. Obviously, I've ruled on keeping out the 22 arbitration award. So object, I will sustain, we 23 will break, and then we can stick around. 24 Can we do the offer of proof at the end of 25 the break, just because we have been the record for</p>	<p style="text-align: right;">Page 1736</p> <p>1 quite a while? 2 MR. McKEEBY: Sure. That's fine with me. 3 THE COURT: Okay. Sounds good. 4 (Thereupon, the sidebar was concluded and 5 the following proceedings were held in open 6 court:) 7 THE COURT: Okay. Mr. McKeeby, you can 8 ask those questions we discussed. 9 BY MR. McKEEBY: 10 Q. Okay. Mr. Sims, I think you mentioned -- 11 sorry. Some of the witnesses are overlapping a bit. 12 But I'm going to say that I think you mentioned that 13 there was an arbitration in connection with this 14 process? 15 A. There was an arbitration -- 16 THE COURT: Hold on. 17 MR. HILL: Objection, limine. 18 THE COURT: Okay. I will overrule that at 19 this point. 20 BY MR. McKEEBY: 21 Q. Explain to the jury what the arbitration 22 involved. 23 MR. HILL: Objection, limine. 24 THE COURT: I will overrule. 25 You can answer.</p>
<p style="text-align: right;">Page 1737</p> <p>1 THE WITNESS: Yes, sir. 2 Again, as I mentioned earlier, in the 3 agreement that we have with the Union, there is an 4 appeals process and there are several steps in the 5 process. 6 We are governed by something called the 7 Railway Labor Act that requires airlines that are 8 under the -- companies that are under the RLA to 9 have an internal mechanism to manage disputes. 10 So in this case, when Ms. Carter chose not 11 to accept the last chance agreement, she appealed to 12 the Step 3, which is an arbitration, which basically 13 means that it is a more formalized hearing with 14 someone who presides over the hearing that is a 15 disinterested party. They are, in effect, a judge, 16 if you will. It's not court, but it's similar. 17 It is a very informal court, how is that? 18 BY MR. McKEEBY: 19 Q. And was that person that you mentioned an 20 arbitrator? Is that the arbitrator who you just 21 described? 22 A. Yes. Yes. Yes. 23 Q. And did you appear at the arbitration? 24 A. I did. 25 MR. HILL: Objection, limine.</p>	<p style="text-align: right;">Page 1738</p> <p>1 BY MR. McKEEBY: 2 Q. What was your -- 3 THE COURT: Hold on. I'm going to rule on 4 it. 5 I will overrule that question. 6 You can answer. 7 BY MR. McKEEBY: 8 Q. What was your role in the actual arbitration? 9 MR. HILL: Objection, limine. 10 THE COURT: I think now we are getting to 11 the point of detail where I will sustain the 12 objection. 13 Counsel, any further questions before we 14 take our break? 15 MR. McKEEBY: I think this is a good time 16 for a break. 17 THE COURT: Okay. Let's take our morning 18 break, a little belatedly. 19 Same instructions. You can talk to your 20 fellow jurors and court personnel, just not about 21 this case; don't talk to anyone else, and don't do 22 any research about the case. 23 We will probably take about a 15-minute 24 break, so we will see you in 15 minutes from now. 25 So I guess that is 11:07. See you in 15 minutes,</p>

<p style="text-align: right;">Page 1739</p> <p>1 thank you.</p> <p>2 All rise for the jury.</p> <p>3 (The jurors exited the courtroom.)</p> <p>4 THE COURT: Okay. So we are going to take</p> <p>5 about a 10-minute break, and then we will need to</p> <p>6 ask some questions outside the jury's hearing in</p> <p>7 what is called an offer of proof.</p> <p>8 So there is a topic I have carved out of</p> <p>9 the jury's hearing, but they are still entitled to</p> <p>10 ask you questions about it on the record.</p> <p>11 So we will come back in 10 minutes, we</p> <p>12 will ask questions outside the jury's hearing, and</p> <p>13 then we will bring them in when we are done.</p> <p>14 Any other issues?</p> <p>15 MR. McKEEBY: No other issues.</p> <p>16 THE COURT: All right. We will see you in</p> <p>17 10 minutes.</p> <p>18 (Recess.)</p> <p>19 THE COURT SECURITY OFFICER: All rise.</p> <p>20 THE COURT: Thank you. You can be seated.</p> <p>21 So we're on the record but outside the</p> <p>22 jury's presence. So we're going to do an offer of</p> <p>23 proof on further details on arbitration in the</p> <p>24 arbitration agreement.</p> <p>25 Correct, Mr. McKeeby?</p>	<p style="text-align: right;">Page 1740</p> <p>1 MR. McKEEBY: Yes.</p> <p>2 THE COURT: Go for it.</p> <p>3 MR. McKEEBY: Thank you, your Honor.</p> <p>4 I forget where we left off.</p> <p>5 VOIR DIRE EXAMINATION</p> <p>6 BY MR. McKEEBY:</p> <p>7 Q. You participated in the arbitration?</p> <p>8 A. That's correct.</p> <p>9 Q. You were a witness?</p> <p>10 A. I was a witness.</p> <p>11 Q. Were you cross-examined?</p> <p>12 A. I was.</p> <p>13 Q. Was that by Ms. Carter's lawyers?</p> <p>14 A. That is correct.</p> <p>15 Q. Now, do you recall who the arbitrator was?</p> <p>16 A. Arbitrator Lemons, L-E-M-O-N-S. I don't</p> <p>17 remember his first name.</p> <p>18 Q. How was he selected?</p> <p>19 A. There is a mechanism between the company and</p> <p>20 the union to select arbitrators. It is done via a</p> <p>21 panel where the union submits names of arbitrators</p> <p>22 they prefer, the company submit names of arbitrators</p> <p>23 we prefer, and there is a strike method that lands</p> <p>24 on a seated panel, if you will.</p> <p>25 Once the panel is seated, it goes in rotation</p>
<p style="text-align: right;">Page 1741</p> <p>1 between union picks and company picks.</p> <p>2 Q. Had you been in proceedings before Arbitrator</p> <p>3 Lemons before this one?</p> <p>4 A. I believe I had.</p> <p>5 Q. Did you view him to be an experienced</p> <p>6 arbitrator?</p> <p>7 A. I thought he was extremely experienced.</p> <p>8 Q. Did Ms. Carter have the opportunity to present</p> <p>9 witnesses and documents at the arbitration?</p> <p>10 A. She did.</p> <p>11 Q. Did she have the opportunity to cross-examine</p> <p>12 Southwest's witnesses?</p> <p>13 A. She did.</p> <p>14 Q. And did Arbitrator Lemons render a written</p> <p>15 decision after the arbitration?</p> <p>16 A. He did.</p> <p>17 Q. And is that --</p> <p>18 MR. McKEEBY: Pull up 124.</p> <p>19 BY MR. McKEEBY:</p> <p>20 Q. Does this appear to be the decision of</p> <p>21 Arbitrator Lemons?</p> <p>22 A. It is.</p> <p>23 MR. McKEEBY: So move to admit. I don't</p> <p>24 know that --</p> <p>25 THE COURT: I will admit for the purpose</p>	<p style="text-align: right;">Page 1742</p> <p>1 of this offer of proof, but not in front of the jury</p> <p>2 as evidence that will go back to the deliberation</p> <p>3 room. Fair enough?</p> <p>4 MR. HILL: Yes, your Honor.</p> <p>5 THE COURT: Okay. It is admitted for this</p> <p>6 hearing.</p> <p>7 MR. McKEEBY: I'm done. Thank you.</p> <p>8 THE COURT: Very good.</p> <p>9 Okay. That concludes the offer of proof.</p> <p>10 We can bring in the jury.</p> <p>11 I've got the jury screens muted, so</p> <p>12 whenever y'all move to a new exhibit that is in</p> <p>13 evidence --</p> <p>14 MR. McKEEBY: Okay. You can take that</p> <p>15 down.</p> <p>16 (The jurors entered the courtroom.)</p> <p>17 THE COURT: Okay. You can be seated.</p> <p>18 And you can continue, Mr. McKeeby.</p> <p>19 MR. McKEEBY: I can, but I will not. I</p> <p>20 thank you for your time, Mr. Sims.</p> <p>21 I will pass the witness.</p> <p>22 THE COURT: Okay. So Mr. Greenfield, it</p> <p>23 is your turn.</p> <p>24</p> <p>25</p>

<p style="text-align: right;">Page 1743</p> <p>1 CROSS-EXAMINATION</p> <p>2 BY MR. GREENFIELD:</p> <p>3 Q. Good afternoon, Mr. Sims.</p> <p>4 A. Good afternoon, sir.</p> <p>5 Q. My name is Adam Greenfield and I represent the</p> <p>6 Union in this matter.</p> <p>7 A. Yes, sir.</p> <p>8 Q. Okay. I want to talk to you a little bit about</p> <p>9 representation first.</p> <p>10 My understanding is that Beth Ross and Becky</p> <p>11 Parker represented Ms. Carter at the Step 2 hearing,</p> <p>12 is that correct?</p> <p>13 A. That is correct, sir.</p> <p>14 Q. Okay. And can you please describe the quality</p> <p>15 of representation that you viewed by Ms. Ross and</p> <p>16 Ms. Parker at that hearing?</p> <p>17 A. I have known Ms. Ross and Ms. Parker for many</p> <p>18 years, and they are the utmost professionals, highly</p> <p>19 capable, highly astute, and highly passionate about</p> <p>20 their case. I thought she was very well</p> <p>21 represented.</p> <p>22 Q. And were they those things you described for</p> <p>23 Ms. Carter?</p> <p>24 A. Did they --</p> <p>25 Q. Did they exhibit those characteristics in their</p>	<p style="text-align: right;">Page 1744</p> <p>1 presentations?</p> <p>2 A. Absolutely. Absolutely. Becky Parker</p> <p>3 especially was very passionate about ensuring that</p> <p>4 Ms. Carter was taken care of in terms of their</p> <p>5 disposition of the case.</p> <p>6 MR. GREENFIELD: I think we stepped on</p> <p>7 each other a little bit, and my apologies to</p> <p>8 Ms. Willis for that.</p> <p>9 BY MR. GREENFIELD:</p> <p>10 Q. Let's ask it again so we can have a clear</p> <p>11 record for the future.</p> <p>12 The qualities you described in Ms. Parker and</p> <p>13 Ms. Ross, did they exhibit those in the</p> <p>14 representation of Ms. Carter?</p> <p>15 A. I believe they did. I thought they were</p> <p>16 outstanding and were very compelling in terms of how</p> <p>17 they came prepared and how they provided</p> <p>18 representation for her.</p> <p>19 Q. You talked about the last chance agreement</p> <p>20 earlier with Mr. McKeeby. Do you remember that?</p> <p>21 A. I do.</p> <p>22 Q. And did you discuss that last chance agreement</p> <p>23 with either Ms. Ross or Ms. Parker at any point?</p> <p>24 A. I did not.</p> <p>25 Q. Is there anything that would have -- that could</p>
<p style="text-align: right;">Page 1745</p> <p>1 have been represented by Ms. Carter or Ms. Parker or</p> <p>2 Ms. Ross that would have changed the last chance</p> <p>3 agreement that you offered to Ms. Carter?</p> <p>4 A. That I don't know. We never had that</p> <p>5 conversation.</p> <p>6 Q. Would you have considered a reduction in the</p> <p>7 24-month probation letter?</p> <p>8 A. That's possible. We just never had that</p> <p>9 conversation.</p> <p>10 Q. Okay. Could you testify to the jury if</p> <p>11 there's -- if you would have taken that out</p> <p>12 completely, if asked?</p> <p>13 MR. HILL: Objection.</p> <p>14 THE WITNESS: I don't think I could have</p> <p>15 taken it out completely.</p> <p>16 THE COURT: Hold on. There was an</p> <p>17 objection.</p> <p>18 MR. HILL: Relevance.</p> <p>19 THE COURT: Okay. I will overrule and</p> <p>20 allow the answer to stand.</p> <p>21 New question.</p> <p>22 MR. GREENFIELD: You sustained the</p> <p>23 objection? I'm sorry.</p> <p>24 THE COURT: I overruled it, but the</p> <p>25 objection came after the question, so I had to say</p>	<p style="text-align: right;">Page 1746</p> <p>1 what I was doing to the question and the answer. I</p> <p>2 let it stand. So you can ask a new question.</p> <p>3 MR. GREENFIELD: Yes, your Honor.</p> <p>4 BY MR. GREENFIELD:</p> <p>5 Q. So my understanding, based on what you said, is</p> <p>6 that you don't think you would have removed that</p> <p>7 stipulation?</p> <p>8 A. No, sir.</p> <p>9 Q. Why not?</p> <p>10 A. Well, Ms. Carter's actions that led to her</p> <p>11 termination were very egregious, very disturbing,</p> <p>12 and were very much against the principles of our</p> <p>13 company. Basically the principles of just treating</p> <p>14 others with respect.</p> <p>15 So that 24-month clause would not have been</p> <p>16 removed because that was the purpose of the last</p> <p>17 chance agreement, to have something in place to</p> <p>18 ensure that Ms. Carter knew moving forward that</p> <p>19 these were the expectations further highlighted to</p> <p>20 ensure that she was clear on the path she needed to</p> <p>21 take.</p> <p>22 Q. And your testimony earlier is that she</p> <p>23 expressed remorse and that she wouldn't do it again?</p> <p>24 A. That is correct.</p> <p>25 Q. Fair to say this is a way to ensure that?</p>

<p style="text-align: right;">Page 1747</p> <p>1 A. That is correct. It's, you know, in layman's 2 terms, it's our insurance policy. 3 Q. Okay. 4 At any point during the Step 2 process, did 5 Ms. Carter ever try to convince you that the 6 messages she sent to Ms. Carter were fake or not 7 actually sent by her? 8 A. No, she didn't. That was actually pretty 9 established from the get-go, that she admitted to 10 them. 11 MR. GREENFIELD: Can you pull up 12 Exhibit 120? 13 BY MR. GREENFIELD: 14 Q. Do you recognize this document, Mr. Sims? 15 A. I do. 16 Q. Okay. And if I can turn your attention to the 17 very bottom of the very last paragraph. Do you see 18 that paragraph? 19 A. Yes, sir. 20 Q. Okay. And above you said you were going to put 21 it in the file. 22 A. Yes. 23 Q. What did this communication mean to you? 24 A. Well, what it was, was Ms. Carter sent this 25 email to her union representative asking to forward</p>	<p style="text-align: right;">Page 1748</p> <p>1 this to me. And I'm assuming that that was in 2 consideration of her case or to provide additional 3 information. 4 So her union representative, Beth Ross, sent it 5 to me, and then I sent it to labor relations to add 6 to the overall file. 7 Q. What is your impression of what, if any, 8 Ms. Carter was trying to represent to you by 9 presenting this? 10 A. I don't have really an impression other than my 11 thought was she was wanting us to have additional 12 information. 13 Q. Okay. Ms. Carter testified yesterday that you 14 told her that Southwest Airlines should never have 15 gotten involved in this case. 16 Did you ever say that to Ms. Carter? 17 A. Not in those words. What I told her was 18 Southwest Airlines does not like to get involved in 19 disputes between union leaders and the constituents 20 they represent, but in this case, we were forced 21 into it. 22 Q. Okay. 23 MR. GREENFIELD: No more questions. Thank 24 you, sir. 25 THE COURT: Thank you, Mr. Greenfield.</p>
<p style="text-align: right;">Page 1749</p> <p>1 Mr. Hill, Mr. Pryor, Mr. Gilliam. 2 MR. HILL: No questions, your Honor. 3 THE COURT: Okay. 4 Any need to ask questions on based on 5 Greenfield's questions, Mr. McKeeby? 6 MR. McKEEBY: No. 7 THE COURT: Any need to reserve him to 8 call him back? 9 MR. HILL: No. 10 THE COURT: Okay. 11 You are excused from your testimony. 12 Thank you for being here. 13 THE WITNESS: Thank you, sir. 14 MR. HILL: Hold on. Maybe. We may need 15 to reserve him. I'm sorry. 16 THE COURT: Okay. So what I will ask you 17 to do is you are excused from the courtroom. They 18 might need to call you back. 19 In light of that, I'm going to ask you not 20 to talk to anyone about the case in the meantime. 21 THE WITNESS: Yes, your Honor. 22 THE COURT: Thank you. Okay. 23 MR. McKEEBY: Does that mean he can leave 24 the courthouse? 25 THE COURT: Sidebar?</p>	<p style="text-align: right;">Page 1750</p> <p>1 MR. McKEEBY: Okay. 2 (Thereupon, the following proceedings were 3 had at sidebar:) 4 THE COURT: So the question would be one 5 on timing. I have no problem with him leaving the 6 courthouse unless it looks like we're going to get 7 to the plaintiff's rebuttal case soon. I haven't 8 watched to see -- this is your last witness? 9 MR. McKEEBY: Yes. 10 THE COURT: You are about to rest. 11 So then you are about to go. 12 I know you have called Sims. You're going 13 to call Carter? 14 MR. GREENFIELD: I don't intend to recall 15 Sims. I just intend to call Ms. Carter. 16 THE COURT: Okay. Do you have any guess 17 as to how long you will go with Carter? 18 MR. GREENFIELD: If everything goes to 19 plan, 15 minutes, but probably an hour. 20 THE COURT: So I would say in light of 21 that, can we ask him to stay within 15 minutes of 22 the courthouse? I don't want to tell him he can't 23 leave the courthouse. We will probably need him 24 shortly after lunch is my guess. 25 MR. PRYOR: Your Honor, part of this will</p>

<p style="text-align: right;">Page 1751</p> <p>1 depend on when they rest, after they do all of that.</p> <p>2 By the way, I found a very interesting</p> <p>3 legal discussion. I'm going to ask the Court for</p> <p>4 some more time. If I don't get more time, I won't</p> <p>5 call him back. If I get more time, I will consider</p> <p>6 calling him back. But we will need more time.</p> <p>7 THE COURT: I understand your request.</p> <p>8 So let me ask you this while we are at</p> <p>9 sidebar. When he rests, are you going to need to</p> <p>10 make a motion outside the presence of the jury --</p> <p>11 MR. PRYOR: Yes.</p> <p>12 THE COURT: -- or you going to wait to</p> <p>13 make a motion until he rests?</p> <p>14 MR. PRYOR: I think procedurally, when he</p> <p>15 rests, we have to -- now, the Court can certainly</p> <p>16 say, I will hold off until -- it is up to you, but I</p> <p>17 think we technically have to make our motion at that</p> <p>18 time, and you can hold it in an abeyance and hear it</p> <p>19 after the Union. It's totally up to you.</p> <p>20 THE COURT: Okay. So what I will do is we</p> <p>21 need to go back on the record for you to rest,</p> <p>22 right, you have no more witnesses, and then we will</p> <p>23 kick the jury out again for you to make your motion.</p> <p>24 And I will hold it abeyance until after I</p> <p>25 hear the Union, just keep them out as briefly as</p>	<p style="text-align: right;">Page 1752</p> <p>1 possible.</p> <p>2 I can't stop you from making your motion.</p> <p>3 MR. PRYOR: I'm not trying to jerk this</p> <p>4 gentleman's chains. If you can give me two more</p> <p>5 hours, I would love to spend some time with him. If</p> <p>6 you can only give me one more hour, 45 minutes, I'm</p> <p>7 probably not going to call him.</p> <p>8 THE COURT: Okay. Let's go back and do</p> <p>9 our thing.</p> <p>10 MR. GREENFIELD: Your Honor, can I make a</p> <p>11 request to Mr. Frye that after he rests and before</p> <p>12 we start, I can just get a shot clock of where we</p> <p>13 stand with everybody, just so I know going in if I</p> <p>14 may need to request more time.</p> <p>15 THE COURT: I will ask them. It's</p> <p>16 multiple timekeepers and they calibrate against each</p> <p>17 other. So I will ask while we're doing your motion.</p> <p>18 MR. GREENFIELD: I just need a rough one.</p> <p>19 MR. PRYOR: I want to make sure I</p> <p>20 understand. When he rests, I just stand up and say,</p> <p>21 We have an issue outside the presence of the jury.</p> <p>22 THE COURT: Sure.</p> <p>23 (Thereupon, the sidebar was concluded and</p> <p>24 the following proceedings were held in open</p> <p>25 court:)</p>
<p style="text-align: right;">Page 1753</p> <p>1 THE COURT: Okay. So with that, now I</p> <p>2 need to ask Mr. McKeeby, do you have any other</p> <p>3 witnesses for Southwest's case?</p> <p>4 MR. McKEEBY: No, your Honor. Southwest</p> <p>5 rests.</p> <p>6 THE COURT: Okay. So do you have a</p> <p>7 motion?</p> <p>8 MR. PRYOR: Your Honor, at this time we</p> <p>9 have a matter to handle outside the presence of the</p> <p>10 jury.</p> <p>11 THE COURT: Got it.</p> <p>12 So any time anyone says the word "rest,"</p> <p>13 then I've got to kick y'all out again, but we will</p> <p>14 try to keep it as short as possible.</p> <p>15 So don't talk to anyone about the case,</p> <p>16 just talk to your fellow jurors and court personnel,</p> <p>17 not about the case. Don't do any research.</p> <p>18 We will see you as soon as we can.</p> <p>19 All rise.</p> <p>20 (The jurors exited the courtroom.)</p> <p>21 THE COURT: Okay. Y'all can be seated.</p> <p>22 As soon as that door is closed, you can</p> <p>23 go, Mr. Pryor -- Mr. Gilliam.</p> <p>24 MR. PRYOR: My lawyer.</p> <p>25 MR. GILLIAM: At this time, Plaintiff</p>	<p style="text-align: right;">Page 1754</p> <p>1 Carter would move for a directed verdict on all</p> <p>2 claims against Southwest Airlines.</p> <p>3 THE COURT: All right. You can elaborate</p> <p>4 as much or as little as you want to. It's entirely</p> <p>5 up to you.</p> <p>6 MR. GILLIAM: Well, so let's start first</p> <p>7 with the RLA retaliation claims.</p> <p>8 There is no question that -- let me move</p> <p>9 up to the podium here for the sake of clarity.</p> <p>10 There is absolutely no question that</p> <p>11 Ms. Carter was fired and that she engaged in</p> <p>12 RLA-protected activity. All of her Facebook videos</p> <p>13 and messages to President Stone are nothing but RLA.</p> <p>14 Well, they are RLA-protected activity. They do</p> <p>15 happen to be protected by Title VII, we will get to</p> <p>16 that in a minute.</p> <p>17 But they were all activity opposing what</p> <p>18 the Union was doing at the Women's March. They were</p> <p>19 objecting to how the Union was spending money.</p> <p>20 And the -- both the videos and the</p> <p>21 pictures demonstrated that, demonstrated</p> <p>22 Ms. Carter's opposition. They were part of her</p> <p>23 protected activity.</p> <p>24 And then as to the next factor under</p> <p>25 Rocello, her RLA-protected activities were a</p>

<p style="text-align: right;">Page 1755</p> <p>1 motivating factor for Southwest's decision to 2 terminate her employment. 3 There is -- there is no dispute or 4 question regarding that either. I think Mr. -- 5 Mr. Schneider has testified that, yes, they fired 6 her for her Facebook videos and messages to Audrey 7 Stone. And that's all RLA-protected activity. 8 We had discussed Write-Line at another 9 point. I know that's probably still an outstanding 10 issue, but I would say this. While Southwest may be 11 allowed a legitimate non-discriminatory reason as an 12 affirmative defense, it doesn't have one. Its only 13 defense is a discriminatory reason, that is, the 14 other discriminatory reasons that would come in 15 would be her Title VII rights and her religious 16 expression. 17 So shifting to that, the first RLA -- I'm 18 sorry, the first Title VII religious discrimination 19 claim against Southwest. So Southwest fired 20 Ms. Carter -- that's the conflict with the social 21 media policies -- because of her sincerely-held 22 religious beliefs. Ms. Carter has testified to her 23 religious beliefs. 24 And even from Mr. Sims to Mr. Schneider, 25 they all recognized that, yes, her religious belief</p>	<p style="text-align: right;">Page 1756</p> <p>1 articulated at the fact-finding meeting was that she 2 wanted to share her message that abortion is the 3 taking of life, contrary to the will of God. 4 Southwest fired her for that. 5 And moving on to the failure to 6 accommodate claim, Southwest was perfectly aware at 7 the fact-finding meeting of Ms. Carter's need for an 8 accommodation. Mr. Schneider had received training 9 from employee relations to recognize any sort of 10 protected categories including religion, but he -- 11 he didn't do anything about it. 12 Under the acting policy, a leader who is 13 aware of any employee's need for accommodation must 14 report to the ACT team. And that didn't happen. 15 There is no undue hardship question here 16 either because Southwest can't show, and hasn't 17 shown, that there was no possible accommodation that 18 they could make, so they would have had to terminate 19 Ms. Carter's employment. 20 No. It is clear that what they could have 21 done, they could have asked Ms. Carter to remove the 22 nexus photos to Southwest, and that would have 23 resolved the problem for her Facebook posts on her 24 website. 25 She could have posted a disclaimer. None</p>
<p style="text-align: right;">Page 1757</p> <p>1 of those would have imposed more than a di minimis 2 burden on the company. They could have done that 3 easily and accommodated Ms. Carter. 4 But instead they fired her, and firing an 5 employee is synonymous with failure to accommodate. 6 So I think I have covered all of the 7 elements. If you have any questions, I'm happy to 8 answer them. 9 THE COURT: Thank you. I don't have any 10 questions, Mr. Gilliam. 11 I'm going to save a ruling for this until 12 after the Union rests and you've made a motion 13 regarding the Union in the interest of saving the 14 jury's time. But I do need to, out of fairness, see 15 if Mr. McKeeby or Mr. Morris have a response to 16 this, briefly. 17 MR. McKEEBY: Okay. Brief response. 18 I think that the entirety of the argument 19 is premised under -- or on the notion that all of 20 the posts were, per se, and completely protected 21 under the RLA, at least as to that claim, as the 22 Court is well aware, we object strongly to that 23 notion. The posts are subject to multiple 24 interpretations which the jury should be allowed to 25 assess in terms of whether or not these were --</p>	<p style="text-align: right;">Page 1758</p> <p>1 these videos were an expression of religious belief 2 or union activity or just personal animosity toward 3 Stone, among possible interpretations. 4 Moreover, the lack of evidence of 5 motivation in this case would be a reason to deny 6 the directed verdict. 7 As to the accommodation claim, there was 8 no reason for Southwest to be aware that any 9 conflict existed between Ms. Carter's religious 10 beliefs or practices and the application of its 11 policy. 12 She never requested an accommodation and 13 it wasn't apparent to Mr. Schneider or anyone else 14 that this was a situation where Southwest could or 15 should have simply overlooked its policies and the 16 obligations under those policies to protect its 17 employees in the context of conduct such as that 18 engaged in by Ms. Carter. 19 Finally, we believe there is more than 20 sufficient evidence of undue hardship, particularly 21 with respect to Mr. Schneider's testimony of the 22 impact on employee morale and employee relations in 23 general should employees like Ms. Carter be allowed 24 to disseminate posts like this to others in the 25 workforce.</p>

<p style="text-align: right;">Page 1759</p> <p>1 THE COURT: Understood. Okay. Thank you. 2 So I will save my ruling on this until 3 after we get the motion on the Union when the Union 4 rests. 5 So in light of that, anything else before 6 we call back in the jury and we hand the baton to 7 you, Mr. Greenfield? 8 MR. GREENFIELD: No, your Honor. 9 THE COURT: Let's bring them back in. 10 And Mr. Greenfield, you are going to call 11 who first -- 12 MR. GREENFIELD: Charlene Carter. 13 THE COURT: Ms. Carter, can you go ahead 14 and come up to the witness box? They are going to 15 call you as the first witness during their case. So 16 while the jury is getting ready, you can come on up. 17 (The jurors entered the courtroom.) 18 THE COURT: Okay. You can be seated. 19 And so now that Southwest has rested, it's 20 your turn to present the Union's case, 21 Mr. Greenfield, and you have called as your first 22 witness -- 23 MR. GREENFIELD: Charlene Carter. 24 THE COURT: Ms. Carter, if you could stand 25 back up.</p>	<p style="text-align: right;">Page 1760</p> <p>1 Mr. Frye, can you administer the oath to 2 Ms. Carter once more? 3 (CHARLENE CARTER was duly sworn by the 4 Clerk.) 5 THE COURT: Y'all know the instructions, 6 so go for it. 7 DIRECT EXAMINATION 8 BY MR. GREENFIELD: 9 Q. Good afternoon, Ms. Carter. 10 A. Hello. 11 Q. Do you recall, when we spoke previously, that 12 you and I and the jury were attempting to get on the 13 same page as far as what you felt the Union did 14 wrong to you. Is that fair? 15 A. Yes. 16 Q. Okay. Today I would like to start with asking 17 you if you were in the courtroom during my opening 18 statement? 19 A. Yes. 20 Q. And did you hear me say that I felt this case 21 was about you being able to say whatever you wanted 22 whenever you wanted and however you wanted to in the 23 workplace? 24 Do you remember that statement? 25 A. I remember that statement.</p>
<p style="text-align: right;">Page 1761</p> <p>1 Q. And do you agree with that? 2 A. I agree with the being the union president, I 3 can speak to my union in any way that I see fit. We 4 pay them to represent us. And so when it comes to 5 my union, yes. 6 Q. Okay. And we will explore that a little bit 7 more. 8 But just to take a step back, in 2013, you 9 objected to being a union member, correct? 10 A. That is correct. 11 Q. And as kind of in line with what you just 12 testified, even though you objected to being in the 13 union, you still wanted a say in how the union was 14 governed and how they spent their funds, correct? 15 A. That is correct, because I still paid dues. 16 Q. And from 2013 to 2017, you were involved with 17 what you felt was activism against union corruption 18 at 556, is that fair? 19 A. Yes. 20 Q. And you talked about it on Facebook? 21 A. Yes. 22 Q. And you threatened to decertify the union? 23 A. I said the word "decertify." I think we need 24 to get rid of TWU, yes, I do. There has been too 25 many problems. They don't work for us.</p>	<p style="text-align: right;">Page 1762</p> <p>1 Q. So fair to say you threatened to decertify the 2 union? 3 A. I didn't threaten. 4 Q. Oh. Okay. 5 A. I said the word "decertify," and that means 6 replacing TWU. Yes, I have called for that for a 7 long time. 8 Q. Exactly. For several years, yes? 9 A. From the time that I started seeing what they 10 do to their own members, yes. 11 Q. And you supported a recall petition? 12 A. I voiced my support for that recall position. 13 Q. You supported it? 14 A. I supported the recall, yes. Didn't sign it, 15 but I supported it. 16 Q. Understood. 17 And you opposed the first tentative contract 18 agreement that Audrey Stone's administration had 19 negotiated, correct? 20 A. Didn't get to vote, but yes, I opposed it. 21 Q. And you sent Instant Messages to Audrey Stone 22 as well, correct? 23 A. I sent Instant Messages to my president of TWU 24 556, yes, I did. 25 Q. And through all of that, from 2013 to the</p>

<p style="text-align: right;">Page 1763</p> <p>1 beginning of 2017, you maintained a clean 2 disciplinary file, isn't that right? 3 A. That is correct. 4 Q. Not a single complaint from another flight 5 attendant or Southwest employee, right? 6 A. My file? 7 Q. Yes, ma'am. 8 A. As far as I know, yes. I never got called in. 9 Q. Okay. 10 So let's talk about life after February of 11 2017, okay? 12 A. Okay. 13 Q. That's when you started sending a very specific 14 type of message to a very specific employee, 15 correct? 16 A. I don't know what you are talking about. 17 Q. Okay. Well, I'm talking about the graphic 18 abortion videos you sent to Ms. Stone. 19 A. The baby abortion videos, yes, to my union 20 president, after they went to the union -- or the DC 21 march with Planned Parenthood, yes, I did. 22 Q. And these are not my words, you described the 23 video as graphic yourself, isn't that right? 24 A. That was on my personal Facebook page. That 25 was not to her.</p>	<p style="text-align: right;">Page 1764</p> <p>1 Q. You don't agree that it's a graphic video? 2 A. It is a depiction of what happens to a precious 3 little baby after it's been aborted. 4 Q. And do you find that to be graphic? 5 A. I find that to be graphic on my personal 6 Facebook page. For anybody that sees the word 7 "graphic," they can scroll through it or watch the 8 video. 9 But when Ms. Stone took those women to that 10 march, she was subjected to the very same things as 11 what I sent her from pro life groups there at the 12 march. 13 So ask your question again. 14 MR. GREENFIELD: I'd make an objection to 15 speculation and move to strike Ms. Carter's response 16 about what Ms. Stone would have viewed at the march. 17 THE COURT: I will sustain that. 18 I will strike that one sentence. 19 Jury, please disregard that last sentence. 20 BY MR. GREENFIELD: 21 Q. Ms. Carter, you don't know what Ms. Stone saw 22 at the march, do you? 23 A. Not specifically, but I will also tell you, 24 too, she made me feel sick, as far as I'm concerned, 25 taking those women and wearing those pussy hats</p>
<p style="text-align: right;">Page 1765</p> <p>1 within the march. 2 MR. GREENFIELD: Objection, your Honor, 3 non-responsive. Move to strike the testimony. 4 THE COURT: I will overrule that. 5 BY MR. GREENFIELD: 6 Q. This was the first time you had ever sent a 7 coworker a video of an aborted baby, right? 8 A. I sent my union president, this was the only 9 time, and it was in reference to what she did by 10 taking those women to that march, yes. 11 Q. Well, you don't dispute that Ms. Stone was a 12 coworker, correct? 13 A. She was our union president first and foremost 14 at that particular time. Was she a flight attendant 15 prior to that and flew regular trips, as the rest of 16 you did? Yes. 17 Q. Are you telling the jury today that you don't 18 believe Ms. Stone was a coworker? 19 A. She was my union president at that time. She 20 was a coworker in the sense that she still worked at 21 Southwest Airlines, but she was using -- she was in 22 the capacity of the union president. 23 Q. But she was a coworker, correct? 24 MR. PRYOR: Object, asked and answered. 25 She just answered.</p>	<p style="text-align: right;">Page 1766</p> <p>1 THE COURT: Hold on. Speaking objection. 2 I will sustain that. 3 New question. 4 MR. GREENFIELD: Yes, your Honor. 5 BY MR. GREENFIELD: 6 Q. And after you sent those videos to Ms. Stone, 7 like clockwork, and also for the first time, you got 8 a call from the company to answer a complaint 9 against you, correct? 10 A. Yes, I did. 11 Q. Okay. And you knew exactly what it was for, 12 didn't you? 13 A. When they referenced on the call -- and this is 14 the first call I got was from Meggan Jones -- she 15 said it had to do with a post. 16 The second message I received was from Ed 17 Schneider, and they said that it had to do with a 18 post that was sent to a -- what they called just 19 another flight attendant coworker. They didn't 20 reference that it was my union president. 21 But I never sent anything else to anybody else 22 but my union president. 23 Q. That's right, Ms. Carter. You knew exactly 24 what it was about when they called, didn't you? 25 A. When they made reference to it, yes, I did. I</p>

<p style="text-align: right;">Page 1767</p> <p>1 mean --</p> <p>2 Q. But they didn't reference Ms. Stone in the</p> <p>3 call, did they, that initial call?</p> <p>4 A. When they said that it was a post that I had</p> <p>5 sent, I knew -- I didn't send any other posts to</p> <p>6 anybody else. So I knew. And she's the only one</p> <p>7 that I communicated with. My president.</p> <p>8 Q. Thank you. That's my point.</p> <p>9 And there was discussion earlier by Ms. Jones</p> <p>10 and Mr. Sims about remorse.</p> <p>11 Are you -- let me just ask you point blank, are</p> <p>12 you remorseful or sorry for the manner in which you</p> <p>13 communicated to Mr. Stone?</p> <p>14 A. Not in the manner that I communicated because I</p> <p>15 could have, if I was a member, I could have taken</p> <p>16 that to a union membership meeting, taken the same</p> <p>17 exact post, said the same exact things in that</p> <p>18 membership meeting, and it would have been</p> <p>19 protected.</p> <p>20 Any communication further should have been</p> <p>21 protected as well because it always had been.</p> <p>22 Q. And did you agree with Ms. Jones's comment that</p> <p>23 you showed no remorse for your actions?</p> <p>24 MR. PRYOR: Object, just asked and</p> <p>25 answered.</p>	<p style="text-align: right;">Page 1768</p> <p>1 MR. GREENFIELD: This is a different</p> <p>2 questions. This is a different question, your</p> <p>3 Honor.</p> <p>4 THE COURT: Yes, it is different. You can</p> <p>5 answer it.</p> <p>6 THE WITNESS: I showed no remorse in the</p> <p>7 fact that they asked me in the manner that I sent</p> <p>8 it. No, I don't -- I'm not remorseful for objecting</p> <p>9 to how my union was representing me and many other</p> <p>10 coworkers at a march that I disagreed with.</p> <p>11 BY MR. GREENFIELD:</p> <p>12 Q. Okay. And my question is a little bit</p> <p>13 different, so let's be clear for the jury.</p> <p>14 I'm not asking you about whether you are</p> <p>15 remorseful about what you were opposing. I'm asking</p> <p>16 if you were sorry for the way you approached the</p> <p>17 situation.</p> <p>18 MR. PRYOR: I object. Maybe it's just me,</p> <p>19 it sounds like the third time. The fact he can use</p> <p>20 one --</p> <p>21 THE COURT: Hold on. That's a speaking</p> <p>22 objection.</p> <p>23 MR. PRYOR: Sorry.</p> <p>24 Object, asked and answered.</p> <p>25 THE COURT: I will sustain that.</p>
<p style="text-align: right;">Page 1769</p> <p>1 BY MR. GREENFIELD:</p> <p>2 Q. Mr. Sims up here, when he was up here, he</p> <p>3 expressed to the jury that he felt you were sorry</p> <p>4 for the way that you communicated to Ms. Stone.</p> <p>5 Did you hear that testimony?</p> <p>6 MR. PRYOR: Object, mischaracterizes his</p> <p>7 testimony.</p> <p>8 THE COURT: I will sustain that.</p> <p>9 You can reask it in a different way.</p> <p>10 BY MR. GREENFIELD:</p> <p>11 Q. Do you believe you expressed remorse to</p> <p>12 Mr. Sims over the way you communicated with Audrey</p> <p>13 Stone?</p> <p>14 A. The remorse that I had that I expressed was</p> <p>15 that if it hurt her as a person, that I was sorry</p> <p>16 for that. But I still have that ability to</p> <p>17 communicate; if she decides to take other people,</p> <p>18 that we pay for, to a march like that, I'm not sorry</p> <p>19 for that.</p> <p>20 I'm just going to tell you right now, we've</p> <p>21 always had open communication without the company</p> <p>22 being involved in union business.</p> <p>23 So what I probably would have done was opted</p> <p>24 back in and taken that complaint to a union meeting</p> <p>25 so that the company could not and would not, because</p>	<p style="text-align: right;">Page 1770</p> <p>1 they couldn't have used it under the social media</p> <p>2 policy that they claim that they used it for.</p> <p>3 And we were being targeted by the union and</p> <p>4 their representatives regarding social media.</p> <p>5 MR. GREENFIELD: Objection, move to</p> <p>6 strike, non-responsive. Move to strike everything</p> <p>7 that did not have to do with my question involving</p> <p>8 remorse.</p> <p>9 THE COURT: I will sustain that, jury.</p> <p>10 Please disregard any portion of the answer that did</p> <p>11 not relate to remorse.</p> <p>12 BY MR. GREENFIELD:</p> <p>13 Q. Ms. Carter, I understand that. I think the</p> <p>14 jury understands those last points you were trying</p> <p>15 to make. But I would like to just stick to the</p> <p>16 questions I'm asking, okay?</p> <p>17 A. Uh-huh.</p> <p>18 Q. In fact, in an earlier proceeding to get your</p> <p>19 job back, you actually admitted that sending the</p> <p>20 post to Ms. Stone was a mistake, isn't that correct?</p> <p>21 A. The mistake that I made was not going into the</p> <p>22 union office. But still the communication that was</p> <p>23 rendered through the Facebook messages was the only</p> <p>24 way that I was going to be able to make -- or</p> <p>25 through email -- was the only way that I was going</p>

<p style="text-align: right;">Page 1771</p> <p>1 to be able to make my statement and my dislike 2 heard. 3 Q. Did you previously offer this same explanation 4 for what you described as a mistake? 5 A. I don't understand that question. 6 Q. You testified, just now, that it was a mistake, 7 but not that type of mistake, not the type of 8 mistake I'm talking about, correct? 9 A. The mistake would be the fact that they were 10 using social media to target us, and that's exactly 11 what happened. 12 If I were to have done it again, I would have 13 gone into her office at the 556 office building and 14 spoken with her, and the company couldn't have used 15 the social media part of it to fire me. 16 Q. Okay. 17 A. It's protected speech between me and my union. 18 Q. I understand that you believe it's protected 19 speech, Ms. Carter. 20 I'm talking about remorse and mistakes and 21 apologies. That's what we are talking about. 22 That's what I'm talking about right now. Okay? 23 A. Correct. 24 Q. All right. And previously, at that earlier 25 proceeding to get your job back, you did, in fact,</p>	<p style="text-align: right;">Page 1772</p> <p>1 say that you were sorry for what you did, isn't that 2 right? 3 MR. PRYOR: Object, asked and answered. 4 She just explained what she meant. 5 THE COURT: Hold on. That's a speaking 6 objection. 7 MR. GREENFIELD: Talking about a different 8 proceeding, your Honor. 9 THE COURT: I will allow her to answer if 10 you clarify which proceeding. 11 BY MR. GREENFIELD: 12 Q. At the arbitration that was discussed earlier. 13 MR. PRYOR: Object to the arbitration. 14 Object, continuing limine issue. 15 THE COURT: I will grant you a running 16 objection, and I will see what the question is. 17 BY MR. GREENFIELD: 18 Q. During that hearing, isn't it true that you 19 testified -- 20 MR. PRYOR: Object, your Honor. He's now 21 using testimony -- 22 THE COURT: We don't do speaking 23 objections. 24 MR. GREENFIELD: If we can approach, your 25 Honor.</p>
<p style="text-align: right;">Page 1773</p> <p>1 MR. PRYOR: I have to approach. 2 (Thereupon, the following proceedings were 3 had at sidebar:) 4 THE COURT: No speaking objections, right? 5 If we do speaking objections and you lose them, I 6 count that time against you. 7 MR. PRYOR: Okay. And I can't afford it. 8 THE COURT: I know. So just speak in 9 code, right? If it's the arbitration -- 10 MR. PRYOR: I quickly said limine. 11 THE COURT: -- details in the arbitration. 12 So these are questions of what she said at 13 the arbitration hearing. 14 MR. GREENFIELD: I intend to impeach her. 15 Her testimony is that she's not -- she's admitting 16 that -- she is testifying that she didn't say that 17 the posts were a mistake and that she's not sorry 18 for what she's done. 19 MR. PRYOR: That's not what she said. 20 MR. GREENFIELD: Excuse me. 21 That is in direct contradiction to what 22 she testified at the arbitration hearing, and I 23 intend to impeach her on it. 24 THE COURT: You can't bring up the 25 arbitration hearing. It's too detailed. I limined</p>	<p style="text-align: right;">Page 1774</p> <p>1 out the arbitration hearing, details of the 2 arbitration hearing. 3 MR. GREENFIELD: Okay. But this -- 4 details of the arbitration. This is about her 5 specific testimony. 6 This is for a matter of impeachment. I'm 7 not asking about any specifics other than for 8 impeachment, and I'm absolutely allowed to impeach 9 her on her prior sworn testimony. 10 MR. PRYOR: Then do it properly. 11 First of all, I don't think that the value 12 of this -- she's testified what her mistake was, 13 over and over. Her mistake was that she let them 14 take advantage of social media policy, not that what 15 she did was wrong. 16 MR. GREENFIELD: And that's the 17 impeachment because -- 18 MR. PRYOR: If this Court thinks that 19 getting into the arbitration at that level is 20 important enough on that issue, we disagree. But if 21 so, he's going to have to lay the predicate. He's 22 going to have to -- 23 THE COURT: So I'm with you on the second 24 point. I think you can tread carefully without 25 getting into what was involved in the arbitration</p>

<p style="text-align: right;">Page 1775</p> <p>1 and what the arbitration decision was, but you've 2 got to do it properly. 3 MR. GREENFIELD: I intend to impeach her 4 with her prior testimony right now. 5 MR. PRYOR: But he has to show her the 6 testimony and ask her if it's inconsistent. He's 7 got to do it just like he would a deposition. You 8 don't just start reading it. 9 THE COURT: That's correct. At this 10 point, I think she has to see it, right? 11 MR. PRYOR: And they have to establish the 12 transcript -- 13 THE COURT: There's one question left. Is 14 that consistent with your prior statement in 15 arbitration? Then you have to show her. That's the 16 last question you can ask before showing her. 17 MR. PRYOR: I don't think he has to use 18 the word "arbitration," but I understand. 19 (Thereupon, the sidebar was concluded and 20 the following proceedings were held in open 21 court.) 22 THE COURT: Okay. So you can ask the 23 question we discussed at sidebar, Mr. Greenfield. 24 MR. PRYOR: Your Honor, time on that? 25 THE COURT: Keep going. Ask the question.</p>	<p style="text-align: right;">Page 1776</p> <p>1 BY MR. GREENFIELD: 2 Q. Ms. Carter, the explanation you are giving 3 about your contrition about whether you made a 4 mistake or whether you were sorry, do you believe 5 that to be consistent with prior testimony you gave 6 at the arbitration hearing? 7 MR. PRYOR: Object. He just misstated her 8 testimony, not only at the arbitration, but what she 9 just said. 10 THE COURT: I will sustain that. 11 You can rephrase it. 12 BY MR. GREENFIELD: 13 Q. It's your testimony that it wasn't a mistake, 14 correct? 15 MR. PRYOR: Object, asked and answered. 16 THE COURT: I will allow this. 17 THE WITNESS: In what -- 18 BY MR. GREENFIELD: 19 Q. Sending the message to Ms. Stone, it's your 20 testimony today that it was not a mistake? 21 MR. PRYOR: Object, mischaracterizes 22 testimony. The question has been asked and answered 23 three times. 24 THE COURT: No, you put him here. So yes, 25 you can be here. So you can get an answer to your</p>
<p style="text-align: right;">Page 1777</p> <p>1 question. 2 THE WITNESS: That it was a mistake to 3 send it to her? 4 BY MR. GREENFIELD: 5 Q. Yes, ma'am. 6 A. I just said that. The mistake was to use it 7 under the form of a social media portion. I should 8 have taken it to her union office and presented it 9 to her, and then the company would have never been 10 able to get involved in the union business. 11 Q. And do you -- 12 A. They use social media. 13 Q. I'm sorry, I don't mean to cut you off. 14 Do you believe that is consistent with your 15 prior testimony at the arbitration proceeding? 16 A. Honestly, I do not remember all of what I said. 17 That's been five years ago. I would have to look at 18 it in context. 19 I will say this. I did say I was sorry if it 20 affected her the way that she is claiming that it 21 affected her. But again, they subjected us to them 22 taking our money and representing us in a march that 23 we did not agree with. 24 Q. So it's your testimony that you are sorry for 25 what -- if it bothered her, but you are not sorry</p>	<p style="text-align: right;">Page 1778</p> <p>1 for what you did, is that fair? 2 A. In the context of what I was -- who I was 3 sending it to, my union president, I would not be 4 here today if they would not have gone to that 5 march. 6 MR. GREENFIELD: Your Honor, I intend to 7 approach the witness for purpose of impeachment. 8 THE COURT: You may. 9 MR. PRYOR: Your Honor, we would like page 10 and line and a copy. 11 THE COURT: You can get it. 12 MR. GREENFIELD: Carter arbitration 13 transcript, Volume 2, lines 8 through 23. 14 THE COURT: I have it. 15 MR. PRYOR: I have to locate it. 16 MR. GREENFIELD: I would be happy to show 17 it to you right here. 18 MR. PRYOR: Your Honor, we object to the 19 use of the arbitration transcript. It's not 20 inconsistent. 21 THE COURT: I understand. 22 I will let you put it in front of the 23 witness. 24 BY MR. GREENFIELD: 25 Q. Ms. Carter, before I show you this document, do</p>

<p style="text-align: right;">Page 1779</p> <p>1 you remember testifying --</p> <p>2 THE COURT: Hold on. We need to get you</p> <p>3 to a microphone.</p> <p>4 MR. GREENFIELD: I apologize for the back</p> <p>5 and forth.</p> <p>6 BY MR. GREENFIELD:</p> <p>7 Q. Ms. Carter, do you remember testifying at an</p> <p>8 arbitration proceeding to get your job back?</p> <p>9 A. Yes, I do.</p> <p>10 Q. And do you remember taking an oath to swear to</p> <p>11 tell the truth, the whole truth, and nothing but the</p> <p>12 truth for that?</p> <p>13 A. Yes, I do.</p> <p>14 Q. Can you please read silently as I read aloud.</p> <p>15 Can we share a microphone?</p> <p>16 THE COURT: Hold on.</p> <p>17 MR. PRYOR: Is he having her read it</p> <p>18 silently or out loud?</p> <p>19 THE COURT: He's asking for himself to</p> <p>20 read it out loud while she reads it silently.</p> <p>21 MR. PRYOR: No. I object. It's improper</p> <p>22 use. He hadn't established an inconsistency, and</p> <p>23 we've pointed it out to the Court.</p> <p>24 THE COURT: I will sustain that.</p> <p>25</p>	<p style="text-align: right;">Page 1780</p> <p>1 BY MR. GREENFIELD:</p> <p>2 Q. If you can just read from here to here.</p> <p>3 A. I'm still not clear, what am I supposed to</p> <p>4 read?</p> <p>5 Q. This part.</p> <p>6 A. This right here?</p> <p>7 Q. Yes, ma'am.</p> <p>8 A. Okay.</p> <p>9 Q. Scroll down?</p> <p>10 A. Wait. Wait.</p> <p>11 Q. I apologize.</p> <p>12 A. I'm sorry. Because I have to digest this. I'm</p> <p>13 sorry.</p> <p>14 Q. That's all right.</p> <p>15 A. I'm not sure, who is -- this is a question,</p> <p>16 correct?</p> <p>17 Q. Yes, ma'am.</p> <p>18 A. Okay. I don't know how to read from this</p> <p>19 computer. Sorry.</p> <p>20 Q. Where can I help?</p> <p>21 A. No, I wanted to go back. It's the question.</p> <p>22 Q. Yes, ma'am.</p> <p>23 A. Okay.</p> <p>24 Okay.</p> <p>25 Q. And can you read and do you see anything else</p>
<p style="text-align: right;">Page 1781</p> <p>1 underneath there about your testimony?</p> <p>2 This is where the question is.</p> <p>3 A. Yeah, that's where I just read to.</p> <p>4 I answered it the same way.</p> <p>5 Q. Ms. Carter, the document I showed you, does it</p> <p>6 refresh your recollection as to what your testimony</p> <p>7 was at the arbitration proceedings?</p> <p>8 A. Yes. And it's exactly what I just told you.</p> <p>9 Q. So your testimony today -- let me ask a</p> <p>10 separate question -- the caveats you've provided</p> <p>11 today now about why it was a mistake and what you</p> <p>12 were actually sorry about, did you offer those</p> <p>13 opinions at the arbitration?</p> <p>14 MR. PRYOR: Object, misuse of a</p> <p>15 transcript. She's answered his question. Now</p> <p>16 he's --</p> <p>17 THE COURT: Hold on. That's a speaking</p> <p>18 objection.</p> <p>19 MR. PRYOR: Sorry.</p> <p>20 THE COURT: I'm overruling it.</p> <p>21 MR. PRYOR: Object to the form of the</p> <p>22 question.</p> <p>23 THE COURT: You can answer.</p> <p>24 THE WITNESS: Okay. Ask that again,</p> <p>25 because I just answered that same question in the</p>	<p style="text-align: right;">Page 1782</p> <p>1 same manner.</p> <p>2 BY MR. GREENFIELD:</p> <p>3 Q. Well, see, that's why we are talking about it,</p> <p>4 Ms. Carter.</p> <p>5 Based on what I just showed you, does it</p> <p>6 refresh your recollection that you did not offer the</p> <p>7 same caveats about it being a mistake -- about why</p> <p>8 it was a mistake, excuse me -- or what you were</p> <p>9 sorry to? You didn't offer that to the arbitrator,</p> <p>10 did you?</p> <p>11 A. It's the same stuff, though. It would have</p> <p>12 been it's a union matter. And the same -- I may not</p> <p>13 have said those exact words, but that's exactly what</p> <p>14 it meant.</p> <p>15 It meant that I would have not done it in the</p> <p>16 manner in which I did. I didn't say because of the</p> <p>17 social media stuff. But I would have -- I would</p> <p>18 have gone into her office.</p> <p>19 Did I say the exact same words? No. But that</p> <p>20 is the same manner in which it's -- it's being</p> <p>21 portrayed.</p> <p>22 Q. Yes, ma'am. And Ms. Carter, I'm not talking</p> <p>23 about the exact same words, I'm talking about any</p> <p>24 words.</p> <p>25 You are offering testimony to the jury today as</p>

<p style="text-align: right;">Page 1783</p> <p>1 to what you think you actually made a mistake about</p> <p>2 and what you actually were sorry about. But at no</p> <p>3 point did you ever express any of that to the</p> <p>4 arbitrator, isn't that correct?</p> <p>5 A. In that -- in that testimony --</p> <p>6 Q. Yes, ma'am.</p> <p>7 A. -- I did not use the exact same words, you are</p> <p>8 correct. I didn't.</p> <p>9 Q. And not the exact same words, you didn't offer</p> <p>10 any of the explanation that we are hearing today,</p> <p>11 isn't that correct?</p> <p>12 A. As in saying that I would taken it to her union</p> <p>13 office? It's the same type of answer.</p> <p>14 I'm sorry for the way that I did it because</p> <p>15 they used it -- no, I didn't say because they used</p> <p>16 it under the social media policy. I made a mistake</p> <p>17 by sending it through social media instead of taking</p> <p>18 it to her office.</p> <p>19 No, I didn't say those exact words, but that is</p> <p>20 exactly what was meant.</p> <p>21 Q. So you agree that you made a mistake in the way</p> <p>22 you sent it to Ms. Stone, isn't that correct?</p> <p>23 MR. PRYOR: Object, asked and answered.</p> <p>24 MR. GREENFIELD: And she's --</p> <p>25</p>	<p style="text-align: right;">Page 1784</p> <p>1 BY MR. GREENFIELD:</p> <p>2 Q. You're testifying right now --</p> <p>3 MR. PRYOR: -- leading after her</p> <p>4 explanation.</p> <p>5 THE COURT: No speaking objections.</p> <p>6 I will sustain that.</p> <p>7 BY MR. GREENFIELD:</p> <p>8 Q. You are testifying right now before the jury</p> <p>9 that what you should have done is you should have</p> <p>10 gone to the union office and talked to Ms. Stone,</p> <p>11 isn't that right? That's the mistake you made?</p> <p>12 A. The mistake I made was sending it through the</p> <p>13 social media because they were using the social</p> <p>14 media -- I would have never been called in if we</p> <p>15 weren't being targeted through social media. I</p> <p>16 would have gone through to her office.</p> <p>17 Q. You are sorry for that, right? The manner in</p> <p>18 which you sent it?</p> <p>19 MR. PRYOR: Object, asked and answered.</p> <p>20 THE WITNESS: Oh, I'm not sorry --</p> <p>21 THE COURT: Hold on.</p> <p>22 Sustained.</p> <p>23 MR. GREENFIELD: She just said she's not</p> <p>24 sorry. So if that's the point, I would like to</p> <p>25 approach the witness for purposes of impeachment.</p>
<p style="text-align: right;">Page 1785</p> <p>1 MR. PRYOR: It's a point she's explained</p> <p>2 what she's sorry for and what she's not --</p> <p>3 THE COURT: I will allow her to answer</p> <p>4 this question in light of that answer.</p> <p>5 BY MR. GREENFIELD:</p> <p>6 Q. Are you sorry for the manner in which you sent</p> <p>7 it to Ms. Stone or not, Ms. Carter? That's what I</p> <p>8 want the jury to understand.</p> <p>9 MR. PRYOR: Object to the form of</p> <p>10 question. It's him telling her what the jury</p> <p>11 understands.</p> <p>12 THE COURT: I will sustain that.</p> <p>13 Reask.</p> <p>14 MR. PRYOR: Wow.</p> <p>15 BY MR. GREENFIELD:</p> <p>16 Q. Ms. Carter, are you sorry for the manner in</p> <p>17 which you sent Audrey Stone the messages?</p> <p>18 A. I would have to reread what you just said,</p> <p>19 because now I'm so confused on everything. I'm</p> <p>20 sorry.</p> <p>21 Q. This is a very simple question. You don't have</p> <p>22 to read anything.</p> <p>23 I'm asking you right now, are you sorry for the</p> <p>24 manner in which you sent the messages to Ms. Stone?</p> <p>25 MR. PRYOR: Object, asked and answered</p>	<p style="text-align: right;">Page 1786</p> <p>1 repeatedly.</p> <p>2 THE COURT: Overruled.</p> <p>3 You can answer.</p> <p>4 THE WITNESS: Can I see that document</p> <p>5 again?</p> <p>6 BY MR. GREENFIELD:</p> <p>7 Q. Ma'am, can you not answer my question without</p> <p>8 reading things?</p> <p>9 A. Am I sorry for sending it in the manner -- you</p> <p>10 are asking me what I said five years ago.</p> <p>11 Q. Ma'am, this is a very simple question.</p> <p>12 Are you or are you not sorry for the manner in</p> <p>13 which you sent the messages to Ms. Stone?</p> <p>14 A. Yes, because it got me here.</p> <p>15 Q. So you are only sorry because you are here</p> <p>16 because of it, that is it? Not actually sending it</p> <p>17 to her, just the result?</p> <p>18 A. I didn't know that I couldn't communicate to my</p> <p>19 union president.</p> <p>20 MR. GREENFIELD: Objection, your Honor.</p> <p>21 Move to strike, non-responsive.</p> <p>22 THE WITNESS: I'm sorry for the fact it</p> <p>23 hurt her if it hurt her in any manner. I have</p> <p>24 already said that.</p> <p>25</p>

<p style="text-align: right;">Page 1787</p> <p>1 BY MR. GREENFIELD:</p> <p>2 Q. And I'm not asking you about that, Ms. Carter.</p> <p>3 A. And yes, sitting here today, I am sorry for the</p> <p>4 manner that I sent it. Yes.</p> <p>5 Q. Thank you.</p> <p>6 I would like to talk now about what you believe</p> <p>7 should be the rules when it comes to other</p> <p>8 employees' rights at the workplace. Okay?</p> <p>9 A. Okay.</p> <p>10 Q. You believe that a union member should never</p> <p>11 turn in another union member at Southwest under any</p> <p>12 circumstances, correct?</p> <p>13 MR. PRYOR: Object, asked and answered</p> <p>14 previously.</p> <p>15 THE COURT: I'll overrule that.</p> <p>16 BY MR. GREENFIELD:</p> <p>17 Q. Is that correct?</p> <p>18 A. Repeat that.</p> <p>19 Q. You believe that a union member should never</p> <p>20 turn in another union member to Southwest Airlines</p> <p>21 under any circumstance, correct?</p> <p>22 A. An executive board member? Yes, I don't think</p> <p>23 that they should ever turn them in to Southwest</p> <p>24 Airlines.</p> <p>25 Q. I'm just asking about any member.</p>	<p style="text-align: right;">Page 1788</p> <p>1 A. Any member.</p> <p>2 Q. Yes, ma'am. We will get to executive board</p> <p>3 members. I'm just talking about --</p> <p>4 A. Any member.</p> <p>5 Q. Yes, ma'am.</p> <p>6 A. It depends upon the context.</p> <p>7 Q. Okay. Thank you.</p> <p>8 So now I want to talk to you about what you</p> <p>9 believe should be the rules when it comes to you and</p> <p>10 your voice, okay?</p> <p>11 A. Uh-huh.</p> <p>12 MR. PRYOR: I'm sorry. Union what?</p> <p>13 BY MR. GREENFIELD:</p> <p>14 Q. In the workplace --</p> <p>15 THE COURT: Counsel couldn't hear that.</p> <p>16 Can you reask that one question?</p> <p>17 MR. GREENFIELD: Yes. It was a signpost</p> <p>18 to just talk about a transition about what we are</p> <p>19 going to be speaking about, and I want to talk to</p> <p>20 Ms. Carter about the rules when it comes to her and</p> <p>21 her voice.</p> <p>22 MR. PRYOR: Her and her voice. Okay.</p> <p>23 BY MR. GREENFIELD:</p> <p>24 Q. In the workplace, you believe that you should</p> <p>25 be able to say whatever you want, however you want,</p>
<p style="text-align: right;">Page 1789</p> <p>1 if it is in support of your Christian beliefs,</p> <p>2 right?</p> <p>3 MR. PRYOR: Asked and answered. Very</p> <p>4 beginning.</p> <p>5 MR. GREENFIELD: It's a different --</p> <p>6 THE COURT: Yeah, it's a different ending.</p> <p>7 I will allow you to answer.</p> <p>8 THE WITNESS: That I can say anything and</p> <p>9 anything? Repeat that.</p> <p>10 BY MR. GREENFIELD:</p> <p>11 Q. You believe that you should be able to say</p> <p>12 whatever you want, however you want, if it's in</p> <p>13 support of your Christian beliefs, isn't that true?</p> <p>14 A. Yes, I should be able to -- to voice my</p> <p>15 Christian beliefs.</p> <p>16 Q. With no constraints, no roof on the vulgarity?</p> <p>17 A. First of all --</p> <p>18 Q. No ceiling on the trauma that it could induce?</p> <p>19 A. -- I never, ever sent these to just a member.</p> <p>20 This was to my union president.</p> <p>21 MR. GREENFIELD: Objection, your Honor,</p> <p>22 non-responsive --</p> <p>23 THE WITNESS: I would never send something</p> <p>24 like that. So here you go.</p> <p>25 No, I would never send those types of</p>	<p style="text-align: right;">Page 1790</p> <p>1 things to just a regular member. No.</p> <p>2 BY MR. GREENFIELD:</p> <p>3 Q. I understand. And we are talking --</p> <p>4 So you believe it changes now, based on whether</p> <p>5 it's a member or an executive board member?</p> <p>6 A. The only reason that it was sent was because it</p> <p>7 is a board member who actually took our money and</p> <p>8 spent it. If they wouldn't have spent the money, I</p> <p>9 wouldn't have had a gripe, a dissenting opinion</p> <p>10 about it and a view on it. I don't care what they</p> <p>11 do. I do if they spend my money and represent me.</p> <p>12 Q. Yes, ma'am. And I'm not talking to you about</p> <p>13 the complaint right now. Okay?</p> <p>14 Can we be on the same page with that?</p> <p>15 A. Yes.</p> <p>16 Q. I'm asking you about your general beliefs about</p> <p>17 what you can and can't do, okay?</p> <p>18 A. Okay.</p> <p>19 Q. All right.</p> <p>20 In the workplace, because I don't think we have</p> <p>21 an answer to this question, I understand an</p> <p>22 objection is probably going to be made about that,</p> <p>23 but you believe that you should be able to say</p> <p>24 whatever you want, however you want, if it is in</p> <p>25 support of your Christian beliefs. That's correct,</p>

<p style="text-align: right;">Page 1791</p> <p>1 right?</p> <p>2 MR. PRYOR: Object, asked and answered.</p> <p>3 THE COURT: I will sustain that.</p> <p>4 BY MR. GREENFIELD:</p> <p>5 Q. There is no roof on the vulgarity of what you</p> <p>6 can say?</p> <p>7 MR. PRYOR: Object -- I'm sorry. I</p> <p>8 thought you were done.</p> <p>9 Object, asked and answered.</p> <p>10 MR. GREENFIELD: I don't believe I ever</p> <p>11 got an answer to the question about vulgarity.</p> <p>12 THE COURT: There is not an answer to this</p> <p>13 one.</p> <p>14 THE WITNESS: I would never be vulgar and</p> <p>15 never was to any employee. So, no, I don't believe</p> <p>16 in vulgarity.</p> <p>17 BY MR. GREENFIELD:</p> <p>18 Q. But you could if you wanted to, correct?</p> <p>19 Because you believe --</p> <p>20 A. That's a right, but I don't believe that with</p> <p>21 my heart that I would ever do that.</p> <p>22 Q. And I'm just -- and I understand that. I'm</p> <p>23 just asking you what you believe the limits on what</p> <p>24 you can say are.</p> <p>25 There is no roof on that vulgarity, is there?</p>	<p style="text-align: right;">Page 1792</p> <p>1 You believe that's your right, correct?</p> <p>2 A. The first amendment in the Constitution gives</p> <p>3 us rights to do --</p> <p>4 MR. GREENFIELD: Objection, your Honor,</p> <p>5 non-responsive, move to strike.</p> <p>6 MR. PRYOR: She's entitled to answer his</p> <p>7 question.</p> <p>8 THE COURT: Hold on. No speaking</p> <p>9 objections.</p> <p>10 I will overrule.</p> <p>11 You can answer the question.</p> <p>12 BY MR. GREENFIELD:</p> <p>13 Q. Ms. Carter, you don't have First Amendment</p> <p>14 right claims in this case, do you?</p> <p>15 A. Under my union, yes.</p> <p>16 MR. PRYOR: She didn't get to answer.</p> <p>17 THE COURT: I will let her finish her</p> <p>18 prior answer.</p> <p>19 MR. PRYOR: Yes. About the First</p> <p>20 Amendment?</p> <p>21 THE WITNESS: Under my union, there is a</p> <p>22 Bill of Rights, and the very first thing is freedom</p> <p>23 of speech.</p> <p>24 Would I be vulgar to another just regular</p> <p>25 flight attendant? First of all, I don't believe</p>
<p style="text-align: right;">Page 1793</p> <p>1 what I sent was vulgar. It's heartbreaking. And I</p> <p>2 sent it to one person, and she was my union</p> <p>3 president.</p> <p>4 BY MR. GREENFIELD:</p> <p>5 Q. And, again, Ms. Stone -- or Ms. Carter, excuse</p> <p>6 me -- I'm not asking you about the post.</p> <p>7 A. No, I don't believe that it is just over the</p> <p>8 top like that.</p> <p>9 Vulgarity, let's say it is sexual, and what I</p> <p>10 sent was costumes of what women were wearing.</p> <p>11 MR. GREENFIELD: And again, objection,</p> <p>12 non-responsive, move to strike.</p> <p>13 THE COURT: I will sustain that.</p> <p>14 BY MR. GREENFIELD:</p> <p>15 Q. Ms. Carter, I'm not asking you about what you</p> <p>16 sent. We all know what you sent. Okay?</p> <p>17 I'm asking about what you think you are allowed</p> <p>18 to do in the workplace? Okay? That's just what we</p> <p>19 are talking about.</p> <p>20 A. To a normal employee? To a normal flight</p> <p>21 attendant that I'm working with, no.</p> <p>22 MR. GREENFIELD: Objection, your Honor,</p> <p>23 non-responsive, move to strike. She's testifying.</p> <p>24 I have not asked a question.</p> <p>25 MR. PRYOR: Object to --</p>	<p style="text-align: right;">Page 1794</p> <p>1 THE COURT: Hold on. Hold on.</p> <p>2 MR. PRYOR: She's answering it.</p> <p>3 THE COURT: I think she's answering your</p> <p>4 question.</p> <p>5 You can finish your answer.</p> <p>6 THE WITNESS: To a normal member,</p> <p>7 employee, flight attendant, that I work with, I</p> <p>8 would have never sent, nor do I agree with sending</p> <p>9 that to just a regular flight attendant unless they</p> <p>10 were spending my money and representing me in an</p> <p>11 action.</p> <p>12 BY MR. GREENFIELD:</p> <p>13 Q. Okay. Ms. Carter, again, I'm not asking you</p> <p>14 what you sent or --</p> <p>15 A. I believe in the freedom of speech.</p> <p>16 MR. GREENFIELD: Objection, your Honor,</p> <p>17 move to strike. Non-responsive.</p> <p>18 THE COURT: Sustained.</p> <p>19 BY MR. GREENFIELD:</p> <p>20 Q. Ms. Carter, I'm just trying to find out, so we</p> <p>21 can all understand --</p> <p>22 A. Yes. I'm just going to answer yes. We do have</p> <p>23 that right.</p> <p>24 Do I think it would be something that I would</p> <p>25 do to just a normal flight attendant? No. My union</p>

<p style="text-align: right;">Page 1795</p> <p>1 president.</p> <p>2 MR. GREENFIELD: Objection,</p> <p>3 non-responsive. Move to strike everything after "we</p> <p>4 have the right to do that."</p> <p>5 THE COURT: Sustained.</p> <p>6 BY MR. GREENFIELD:</p> <p>7 Q. And because you have that right, Ms. Carter,</p> <p>8 you believe you could -- I'm not saying that you</p> <p>9 would -- but you could send vulgar messages to a</p> <p>10 coworker in support of your religious beliefs,</p> <p>11 correct?</p> <p>12 MR. PRYOR: Your Honor, object on</p> <p>13 relevance and vagueness. And this seems to be --</p> <p>14 THE COURT: Hold on. That is speaking.</p> <p>15 MR. PRYOR: -- a hypothetical concept</p> <p>16 without sufficient standing.</p> <p>17 THE COURT: I will allow the question if</p> <p>18 you can answer.</p> <p>19 THE WITNESS: If an employee feels it</p> <p>20 necessary, under the -- and this also goes under the</p> <p>21 RLA, between union members, and that means members.</p> <p>22 You are asking me members --</p> <p>23 MR. GREENFIELD: Objection, your Honor.</p> <p>24 THE WITNESS: -- is that correct?</p> <p>25 MR. GREENFIELD: Move to strike,</p>	<p style="text-align: right;">Page 1796</p> <p>1 non-responsive.</p> <p>2 I'm asking about her -- what -- if she</p> <p>3 could -- if she felt she could send vulgar messages,</p> <p>4 if she had the right to send vulgar messages to</p> <p>5 other employees, as long it was in support of her</p> <p>6 Christian beliefs.</p> <p>7 THE COURT: I think she was answering your</p> <p>8 question, so I'm not going to strike it.</p> <p>9 You can ask a new question.</p> <p>10 BY MR. GREENFIELD:</p> <p>11 Q. Do you believe you can do that?</p> <p>12 A. Under the First Amendment --</p> <p>13 MR. PRYOR: Object to not what occurred in</p> <p>14 this case.</p> <p>15 THE COURT: I understand that that's what</p> <p>16 relevance means.</p> <p>17 So I'm overruling and you can answer the</p> <p>18 question.</p> <p>19 THE WITNESS: Under the First Amendment,</p> <p>20 we should be given a right to send -- now, there may</p> <p>21 be consequences, but to send to somebody a message,</p> <p>22 a private message, yes.</p> <p>23 BY MR. GREENFIELD:</p> <p>24 Q. And you agree that there can be consequences to</p> <p>25 sending those messages, just like you just</p>
<p style="text-align: right;">Page 1797</p> <p>1 testified. Correct?</p> <p>2 A. To a -- under the context of just sending it,</p> <p>3 yes. But under the consequence -- or under the</p> <p>4 circumstances of an action and responding to that</p> <p>5 action that my union president did, I feel I have</p> <p>6 every right to do that.</p> <p>7 Q. Again, Ms. Stone --</p> <p>8 MR. GREENFIELD: Objection,</p> <p>9 non-responsive. Move to strike.</p> <p>10 MR. PRYOR: Your Honor, it's absolutely</p> <p>11 responsive.</p> <p>12 THE COURT: Hold on.</p> <p>13 I will deny that request.</p> <p>14 You can ask a new question.</p> <p>15 MR. GREENFIELD: I will.</p> <p>16 BY MR. GREENFIELD:</p> <p>17 Q. Should the religions of all Southwest employees</p> <p>18 be protected in the same way?</p> <p>19 A. Yes.</p> <p>20 Q. So you would agree that everyone in the</p> <p>21 workplace can say whatever they want to other</p> <p>22 employees as long as it was motivated by their</p> <p>23 religious beliefs, isn't that right?</p> <p>24 MR. PRYOR: Object, mischaracterizes her</p> <p>25 testimony. She explained --</p>	<p style="text-align: right;">Page 1798</p> <p>1 THE COURT: Hold on. Hold on. No, no,</p> <p>2 no.</p> <p>3 I will sustain that.</p> <p>4 MR. GREENFIELD: Then may I backtrack to</p> <p>5 get some clarity to --</p> <p>6 THE COURT: You may.</p> <p>7 MR. GREENFIELD: -- flesh that out, your</p> <p>8 Honor?</p> <p>9 THE COURT: You may.</p> <p>10 BY MR. GREENFIELD:</p> <p>11 Q. You have testified that you should be able to</p> <p>12 say whatever you want, however you want, if it is in</p> <p>13 support of your Christian beliefs, correct?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And you believe that all religions at</p> <p>16 Southwest should be protected in the same way,</p> <p>17 correct?</p> <p>18 A. Yes.</p> <p>19 Q. So now we get to the big point.</p> <p>20 So if everyone can say whatever they want to</p> <p>21 their employees, as long as it was motivated by</p> <p>22 their religious beliefs, you believe that to be</p> <p>23 true, correct?</p> <p>24 A. Yes. I believe that you should be able to</p> <p>25 speak what you believe in, yes, I do.</p>

<p style="text-align: right;">Page 1799</p> <p>1 Q. All right.</p> <p>2 Let's move on and talk about one more rule that</p> <p>3 you believe should be applied to you and your voice.</p> <p>4 Okay?</p> <p>5 A. Okay.</p> <p>6 Q. You believe that because Audrey Stone was the</p> <p>7 union president, no matter what you did, she</p> <p>8 shouldn't be able to report you to Southwest</p> <p>9 Airlines, correct?</p> <p>10 A. Correct.</p> <p>11 Q. In fact, you believe that if it was an</p> <p>12 African-American board member, you could send a</p> <p>13 message including the N word, and they shouldn't be</p> <p>14 able to report you to Southwest Airlines, isn't that</p> <p>15 correct?</p> <p>16 A. That is not correct.</p> <p>17 Q. If you were to send a message to a union</p> <p>18 officer who is an African-American including the N</p> <p>19 word, would it be appropriate for that person to</p> <p>20 report you to Southwest Airlines?</p> <p>21 A. That's a defamation, and that -- that, first</p> <p>22 off, should be handled through the union, and from</p> <p>23 there, I don't know the actions.</p> <p>24 But it should be -- and it would be something</p> <p>25 that the union would probably take them out of the</p>	<p style="text-align: right;">Page 1800</p> <p>1 membership or --</p> <p>2 Q. Well, you couldn't do that to a non-member,</p> <p>3 could you?</p> <p>4 A. There were avenues that they could have taken</p> <p>5 through the union membership.</p> <p>6 Q. Is it your testimony that the union has the</p> <p>7 ability to punish you as a non-member for things you</p> <p>8 say? Officially as far as in a union capacity. Can</p> <p>9 they bring you up on charges?</p> <p>10 A. No, I don't believe they can bring me up on</p> <p>11 charges.</p> <p>12 Q. No, they cannot, Ms. Carter, can they?</p> <p>13 A. That's why they were searching for other</p> <p>14 avenues --</p> <p>15 Q. Well, my question, Ms. Carter --</p> <p>16 A. -- if you recall.</p> <p>17 THE COURT: Hold on. We've got to keep</p> <p>18 separation between the questions and answers.</p> <p>19 You can ask a new question.</p> <p>20 MR. GREENFIELD: Yes, your Honor.</p> <p>21 BY MR. GREENFIELD:</p> <p>22 Q. Back to my question.</p> <p>23 If you were to send a message to a union</p> <p>24 officer, you, as a non-member, who is an</p> <p>25 African-American, including the N word, your</p>
<p style="text-align: right;">Page 1801</p> <p>1 testimony is that it would be inappropriate for that</p> <p>2 person to report you to Southwest Airlines, isn't</p> <p>3 that right?</p> <p>4 A. I think we would probably go to -- oh, what is</p> <p>5 it called? -- professional standards, and</p> <p>6 professional standards is within the company.</p> <p>7 MR. GREENFIELD: Objection, your Honor,</p> <p>8 non-responsive, move to strike. I asked if she</p> <p>9 thought it would be inappropriate for that person to</p> <p>10 report her.</p> <p>11 THE COURT: Hold on. That's a speaking</p> <p>12 objection. Hold on.</p> <p>13 I will overrule that.</p> <p>14 THE WITNESS: First of all, I would never</p> <p>15 use that word.</p> <p>16 Second of all, I think that's a</p> <p>17 derogatory, horrible statement to somebody.</p> <p>18 So I guess if the union felt that it was</p> <p>19 so derogatory, yes, then they would have to go to</p> <p>20 the company.</p> <p>21 BY MR. GREENFIELD:</p> <p>22 Q. And, Ms. Carter, I understand. I'm not saying</p> <p>23 you would. I'm saying that you could, and the union</p> <p>24 should not be able to turn you in to the company.</p> <p>25 That is correct, right?</p>	<p style="text-align: right;">Page 1802</p> <p>1 MR. PRYOR: Your Honor, I object to him</p> <p>2 putting her in an example of using --</p> <p>3 THE COURT: That is a speaking objection.</p> <p>4 What's your --</p> <p>5 MR. PRYOR: Object to improper question,</p> <p>6 improper hypothetical, putting her in that position.</p> <p>7 THE COURT: Yes. I think I'll sustain</p> <p>8 that at this point.</p> <p>9 BY MR. GREENFIELD:</p> <p>10 Q. You believe an objector, okay, let's just take</p> <p>11 the -- let's just take that specific example.</p> <p>12 You believe an objector, if they were to send a</p> <p>13 message to a union officer who is African-American</p> <p>14 including the N word, it would be inappropriate to</p> <p>15 turn that person in to Southwest Airlines for doing</p> <p>16 that, correct?</p> <p>17 MR. PRYOR: Object, incomplete</p> <p>18 hypothetical as opposed to other avenues.</p> <p>19 THE COURT: I will sustain that at this</p> <p>20 point.</p> <p>21 BY MR. GREENFIELD:</p> <p>22 Q. In fact, you believe that you can actually make</p> <p>23 physical threats of violence to a board member and</p> <p>24 they shouldn't be able to turn you in, isn't that</p> <p>25 right?</p>

<p style="text-align: right;">Page 1803</p> <p>1 MR. PRYOR: Once again, an incomplete 2 hypothetical. Acting like that's the only -- 3 THE COURT: Hold on. Just give me your 4 objection, not your -- 5 MR. PRYOR: Improper hypothetical. 6 THE COURT: I will allow this one. 7 THE WITNESS: If it is a physical threat, 8 like execution, yes. And I also think they should 9 call the police, police first. If they feel their 10 life -- such as targeted executions, yes. I think 11 that that would be something that they should take 12 to the police and then to Southwest. 13 BY MR. GREENFIELD: 14 Q. Just so we are clear, because you said yes and 15 it was I think a bit ambiguous. 16 Do you believe that you can make -- that a 17 threat of physical violence can be made without 18 those repercussions? 19 MR. PRYOR: Object to the hypothetical. 20 THE WITNESS: I don't understand. 21 MR. PRYOR: Asked and answered. Object, 22 403. 23 MR. GREENFIELD: I literally don't know 24 the answer. 25 THE COURT: Hold on.</p>	<p style="text-align: right;">Page 1804</p> <p>1 I will allow it. 2 THE WITNESS: Okay. I didn't understand 3 that question. 4 BY MR. GREENFIELD: 5 Q. All right. So just to take a step back. 6 We are talking about what you believe should 7 apply to you and your voice, okay? Yes? 8 A. Yes. 9 Q. Okay. And you believe that you can make a 10 physical threat of violence to an executive board 11 member in a message and that they cannot turn you in 12 to the company, isn't that correct? 13 MR. PRYOR: Object. Placing her in the 14 position of doing something improper that she 15 hasn't. It's an improper hypothetical. 16 THE COURT: I will allow her to answer 17 this one last question. 18 THE WITNESS: I never and would never 19 suggest physical violence or bring physical violence 20 or talk about physical violence to anyone at work -- 21 BY MR. GREENFIELD: 22 Q. I know you wouldn't. 23 A. -- or a union member. 24 Q. I apologize. I understand that -- 25 A. Place me in that position.</p>
<p style="text-align: right;">Page 1805</p> <p>1 Q. I understand that your testimony is that you 2 wouldn't do it. 3 But you believe you could, and that the union 4 cannot turn you in to the company, isn't that 5 correct? 6 MR. PRYOR: Same objection, and we are now 7 beyond one last time. 8 THE COURT: I will sustain that. 9 BY MR. GREENFIELD: 10 Q. I believe your testimony is that on a threat of 11 physical violence, they should call the police, 12 right? 13 MR. PRYOR: Object, your Honor. Asked and 14 answered and skirting your ruling. 15 MR. GREENFIELD: I have not asked anything 16 about -- 17 THE COURT: I will let him revisit this 18 one last time. 19 BY MR. GREENFIELD: 20 Q. A threat of physical violence is made. You 21 think the option is that the board member should 22 call the police, correct? 23 A. I think board member or even just a regular 24 flight attendant should call the police first, yes. 25 Q. I'm talking about board members. You believe</p>	<p style="text-align: right;">Page 1806</p> <p>1 the board member should call the police, correct? 2 A. If they feel physical threat, yes. 3 Q. Call the police, but not -- 4 A. And file a complaint. 5 Q. Call the police, but not report it to the 6 company, right? 7 MR. PRYOR: Object, asked and answered. 8 THE COURT: Sustained. 9 BY MR. GREENFIELD: 10 Q. Ms. Carter, you believe because Ms. Stone was 11 the union president, no matter what you did, she 12 couldn't report you, correct? 13 MR. PRYOR: Object, asked and answered 14 multiple times including -- 15 THE COURT: I'll allow it. 16 BY MR. GREENFIELD: 17 Q. Isn't that right, Ms. Stone -- or Ms. Carter? 18 A. That -- repeat that question, please. 19 Q. Do you believe that because Audrey Stone was 20 the union president, no matter what you did, no 21 matter what you said, she shouldn't report you to 22 Southwest Airlines. Isn't that correct? 23 A. No matter what I said as long as it's not a 24 threat. 25 Q. So you are making -- just so we understand, you</p>

<p style="text-align: right;">Page 1807</p> <p>1 are making a caveat for a threat now, is that</p> <p>2 correct?</p> <p>3 MR. PRYOR: Object, calls for a legal</p> <p>4 conclusion, and her opinion is not relevant on</p> <p>5 something not at issue.</p> <p>6 THE COURT: Overruled.</p> <p>7 She can answer.</p> <p>8 THE WITNESS: I believe that we can speak</p> <p>9 to our union president when there has been an action</p> <p>10 and we are dissenting. We have every right to say</p> <p>11 anything to our union president, yes, within the</p> <p>12 context of what they have done. Especially when</p> <p>13 they are using our money to do it.</p> <p>14 BY MR. GREENFIELD:</p> <p>15 Q. And you could even include a physical threat,</p> <p>16 isn't that right?</p> <p>17 MR. PRYOR: Object, asked and answered.</p> <p>18 BY MR. GREENFIELD:</p> <p>19 Q. As long as it was talking about what they</p> <p>20 were --</p> <p>21 MR. PRYOR: We've been through the</p> <p>22 physical threats.</p> <p>23 THE COURT: Hold on. He's got to finish</p> <p>24 his question first.</p> <p>25 Can you restate your question,</p>	<p style="text-align: right;">Page 1808</p> <p>1 Mr. Greenfield?</p> <p>2 BY MR. GREENFIELD:</p> <p>3 Q. My understanding is that when I asked you a</p> <p>4 question about what you -- what you believe you</p> <p>5 could do and whether or not the union or a president</p> <p>6 could report you, you parsed out that it couldn't</p> <p>7 include a physical threat.</p> <p>8 Could you or could you not make a threat --</p> <p>9 A. A union member --</p> <p>10 Q. Excuse me. Excuse me.</p> <p>11 Could you or could you not make a threat of</p> <p>12 physical violence as long it was tied to your</p> <p>13 anti-union speech and not suffer the consequences of</p> <p>14 being reported by the union president? That is what</p> <p>15 you believe, correct?</p> <p>16 MR. PRYOR: Object, improper hypothetical.</p> <p>17 Reported to who?</p> <p>18 THE COURT: I'll allow it.</p> <p>19 BY MR. GREENFIELD:</p> <p>20 Q. That's what you believe, right?</p> <p>21 A. Well, I can tell you this. It has been done</p> <p>22 before and people weren't turned in.</p> <p>23 MR. GREENFIELD: Objection, your Honor,</p> <p>24 move to strike, non-responsive.</p> <p>25 THE COURT: Sustained.</p>
<p style="text-align: right;">Page 1809</p> <p>1 MR. GREENFIELD: I'm just asking about</p> <p>2 her.</p> <p>3 BY MR. GREENFIELD:</p> <p>4 Q. You believe you can do that, right, Ms. Carter?</p> <p>5 You believe you can do that?</p> <p>6 A. Somebody can make a physical threat, and then</p> <p>7 that person on the union board would actually, I</p> <p>8 believe, would call the police, file a report, and</p> <p>9 that report, if it was deemed necessary to involve</p> <p>10 Southwest Airlines, yes, it would go to Southwest</p> <p>11 Airlines.</p> <p>12 Q. But that's the point, Ms. Carter.</p> <p>13 You believe that the executive board member can</p> <p>14 and should call the police, but they cannot inform</p> <p>15 their company of a physical threat. That's your</p> <p>16 testimony?</p> <p>17 A. If it is a direct physical threat such as I'm</p> <p>18 going to execute you, yes. But I would also first</p> <p>19 involve the police so that you have a formal</p> <p>20 complaint to also take to Southwest.</p> <p>21 Q. All right. So now we are back to that same</p> <p>22 point, because you are parsing out your explanation</p> <p>23 a little bit.</p> <p>24 I asked if you believed that because Audrey</p> <p>25 Stone was the union president, no matter what you</p>	<p style="text-align: right;">Page 1810</p> <p>1 did, she shouldn't be able to report you to</p> <p>2 Southwest Airlines, right?</p> <p>3 A. In the context of union business, no, she</p> <p>4 should not.</p> <p>5 Q. In the context of union business. We can agree</p> <p>6 on that. She should not be able to even if it</p> <p>7 includes a physical threat, right? You believe --</p> <p>8 A. I did not physically threaten her.</p> <p>9 MR. GREENFIELD: Objection, your Honor,</p> <p>10 non-responsive. Move to strike. I'm in the middle</p> <p>11 of my question.</p> <p>12 THE COURT: Hold on. We've got to keep</p> <p>13 separation between questions and answers.</p> <p>14 So I'm not going to strike it, but he</p> <p>15 needs to finish his question, then she needs to</p> <p>16 finish her answer.</p> <p>17 You can repeat your question.</p> <p>18 BY MR. GREENFIELD:</p> <p>19 Q. Okay. Let's dial it back to the beginning</p> <p>20 because it got stepped on for the record.</p> <p>21 I asked you whether you believe that because</p> <p>22 Audrey Stone was the union president, no matter what</p> <p>23 you did, as long as it was tied to your protected</p> <p>24 union speech, that she shouldn't be able report you</p> <p>25 to Southwest Airlines.</p>

<p style="text-align: right;">Page 1811</p> <p>1 MR. PRYOR: Your Honor --</p> <p>2 BY MR. GREENFIELD:</p> <p>3 Q. And now it is your testimony that -- but not</p> <p>4 physical threats, right?</p> <p>5 MR. PRYOR: Object. First of all, it's</p> <p>6 now compound, but also he's -- it's like --</p> <p>7 THE COURT: Just state your objection. No</p> <p>8 speaking objections.</p> <p>9 MR. PRYOR: -- he's putting her in an</p> <p>10 example of doing something highly improper that</p> <p>11 there is no evidence she's done.</p> <p>12 THE COURT: Okay, that is still a speaking</p> <p>13 objection.</p> <p>14 MR. PRYOR: Well. I didn't know -- can I</p> <p>15 just say --</p> <p>16 THE COURT: Improper hypothetical.</p> <p>17 MR. PRYOR: Improper hypothetical.</p> <p>18 THE COURT: I will sustain that.</p> <p>19 MR. PRYOR: Sorry.</p> <p>20 THE COURT: Counsel, I'm wondering if we</p> <p>21 can break for lunch. It is 12:24.</p> <p>22 MR. GREENFIELD: This is my last point,</p> <p>23 your Honor.</p> <p>24 THE COURT: Are you within five minutes?</p> <p>25 MR. GREENFIELD: I'm within five minutes.</p>	<p style="text-align: right;">Page 1812</p> <p>1 THE COURT: Okay. Let's finish your</p> <p>2 examination then.</p> <p>3 BY MR. GREENFIELD:</p> <p>4 Q. Do you or do you not believe that you can make</p> <p>5 a threat of physical violence to a union president,</p> <p>6 okay? As long it's tied to your speech, do you</p> <p>7 believe -- to your union dissenting speech, do you</p> <p>8 believe you can do that?</p> <p>9 MR. PRYOR: Same objection. He's now</p> <p>10 placing her -- same objection. Improper</p> <p>11 hypothetical.</p> <p>12 MR. GREENFIELD: It's not a hypothetical,</p> <p>13 your Honor.</p> <p>14 THE COURT: I will allow her to answer.</p> <p>15 THE WITNESS: Please repeat that.</p> <p>16 BY MR. GREENFIELD:</p> <p>17 Q. Yes ma'am.</p> <p>18 A. And please don't put me as the person</p> <p>19 threatening because I have never threatened anybody</p> <p>20 at my job.</p> <p>21 Q. Ms. Carter, again, I'm not asking you -- I'm</p> <p>22 not saying anything about what you did or whether</p> <p>23 you would or won't used the N word. We are just</p> <p>24 talking about what you believe you can do and the</p> <p>25 limits to your voice, okay?</p>
<p style="text-align: right;">Page 1813</p> <p>1 That's what I want the jury to understand.</p> <p>2 A. Okay.</p> <p>3 Q. Do you believe that you can make a threat of</p> <p>4 physical violence to your union president as long as</p> <p>5 you are also dissenting to the union's position on</p> <p>6 whatever? Do you believe you can do that?</p> <p>7 MR. PRYOR: Object, improper hypothetical.</p> <p>8 Object, asked and answered.</p> <p>9 MR. GREENFIELD: It is not a hypothetical.</p> <p>10 THE COURT: I'll allow it.</p> <p>11 BY MR. GREENFIELD:</p> <p>12 Q. Do you believe you can do that, Ms. Carter?</p> <p>13 MR. PRYOR: Same objection.</p> <p>14 THE COURT: I'll allow it.</p> <p>15 THE WITNESS: I believe that you can --</p> <p>16 you can, and it has been done, make a threat to a</p> <p>17 union officer.</p> <p>18 Do I think that that is protected under</p> <p>19 the RLA? A threat such as execution? No, I do not.</p> <p>20 MR. GREENFIELD: Okay. I would like to</p> <p>21 approach the witness for purposes of impeachment.</p> <p>22 THE COURT: With what?</p> <p>23 MR. GREENFIELD: Her deposition, your</p> <p>24 Honor.</p> <p>25</p>	<p style="text-align: right;">Page 1814</p> <p>1 BY MR. GREENFIELD:</p> <p>2 Q. Ms. Carter, do you remember giving a deposition</p> <p>3 testimony tied to this case?</p> <p>4 A. Yes. That has been a couple of years ago.</p> <p>5 Yes, I do.</p> <p>6 Q. During that deposition, did you swear to tell</p> <p>7 the truth, the whole truth and nothing but the</p> <p>8 truth?</p> <p>9 A. Yes.</p> <p>10 Q. Okay.</p> <p>11 MR. GREENFIELD: May I approach the</p> <p>12 witness, your Honor?</p> <p>13 THE COURT: You may.</p> <p>14 BY MR. GREENFIELD:</p> <p>15 Q. Reading from page 46, can you read, please,</p> <p>16 silently, as I read aloud.</p> <p>17 "Had you sent Ms. Stone a message that said" --</p> <p>18 MR. PRYOR: Object, improper use of</p> <p>19 deposition.</p> <p>20 THE COURT: I will sustain that.</p> <p>21 And we need a microphone.</p> <p>22 MR. GREENFIELD: May we approach sidebar?</p> <p>23 THE COURT: You may.</p> <p>24 (Thereupon, the following proceedings were</p> <p>25 had at sidebar:)</p>

<p style="text-align: right;">Page 1815</p> <p>1 MR. GREENFIELD: Your Honor, I presented 2 the testimony specifically on this issue. I have 3 shown page and line as to what I'm going to speak 4 on. I don't know where my mistake is in this 5 impeachment technique. 6 MR. PRYOR: First of all, he has to 7 establish that she said something inconsistent. 8 He asked a hypothetical now that is not 9 the question that was asked at deposition. It's a 10 different question. 11 She does say, in response to that 12 question, that, no, you shouldn't report it to 13 Southwest Airlines. 14 Now if he wants to ask those questions 15 there and see if she says something different, then 16 he can use the deposition. But not with the 17 hypothetical that is not that question. 18 THE COURT: That's my view -- 19 MR. GREENFIELD: You want me to use the -- 20 THE COURT: -- on all fours. 21 MR. PRYOR: I will use the exact language 22 on the page and then we will get to lunch. 23 (Thereupon, the sidebar was concluded and 24 the following proceedings were held in open 25 court:)</p>	<p style="text-align: right;">Page 1816</p> <p>1 BY MR. GREENFIELD: 2 Q. Had you sent Ms. Stone a message that said, 3 "I'm going to harm you," it is your view, based on 4 what you have testified today, that it would be 5 inappropriate for her to report you to Southwest 6 Airlines, is that correct? 7 A. If I was going to harm her? 8 Q. Yes, ma'am. 9 A. I think that she should call the police. 10 Q. And my question is a little bit different, 11 ma'am. 12 My question is, would it be inappropriate for 13 her to report you to Southwest Airlines? 14 MR. PRYOR: Your Honor, I object. Can I 15 show you -- she doesn't even have it in front of 16 her. She gave the same answer. 17 THE COURT: Sidebar. 18 (Thereupon, the following proceedings were 19 had at sidebar:) 20 MR. PRYOR: He asked the question and she 21 gave the very same answer. 22 And then he said, "That is not my 23 question." 24 That is exactly what he asked. 25 MR. GREENFIELD: No. If you continue to</p>
<p style="text-align: right;">Page 1817</p> <p>1 read down the page, she testifies that, look, if you 2 look at line 17 to 20 -- 3 MR. PRYOR: We are not there yet, though. 4 MR. GREENFIELD: -- I'm asking a very 5 specific question. Because this is the next 6 question that's about to follow up. Because the 7 same thing happened at her deposition. She tried to 8 equivocate about the police. 9 17. "I'm asking a very specific question 10 I understand that you would have reported it to the 11 police. Would it be inappropriate for her to also 12 report you to Southwest Airlines?" 13 THE COURT: You need to move on to the 14 second question now. You haven't gotten there. The 15 first question is now consistent; we have got to get 16 to the second. 17 (Thereupon, the sidebar was concluded and 18 the following proceedings were held in open 19 court:) 20 BY MR. GREENFIELD: 21 Q. Okay, Ms. Carter. 22 So I'm asking a very specific -- 23 MR. PRYOR: I would like the record to 24 reflect that my objection was sustained. 25 THE COURT: Correct.</p>	<p style="text-align: right;">Page 1818</p> <p>1 BY MR. GREENFIELD: 2 Q. So I'm asking a very specific question. Okay? 3 I understand that you would have reported to 4 her to the police. Agreed. Would it be 5 inappropriate for her to also report it to Southwest 6 Airlines? 7 A. If the threat was real and the police report 8 shows it. 9 Q. The threat is just "I'm going to harm you." 10 That was the -- that was the quote. 11 I'm asking -- 12 A. In what context? I'm going to harm you. 13 She should report it to the police, and if she 14 truly feels that she's being harmed, I still don't 15 believe that she should be going to Southwest 16 Airlines. 17 Q. Thank you, Ms. Carter. 18 You believe even if -- 19 A. Go to the police. 20 MR. PRYOR: Wait. Object, asked and 21 answered. 22 BY MR. GREENFIELD: 23 Q. Even if you said, "I'm going to harm you" -- 24 A. Go to the police. 25 Q. -- she should not be able to report it to</p>

<p style="text-align: right;">Page 1819</p> <p>1 Southwest Airlines, correct?</p> <p>2 MR. PRYOR: She's answered the question.</p> <p>3 THE WITNESS: Go to the police, and then</p> <p>4 they will file the complaint to Southwest Airlines.</p> <p>5 BY MR. GREENFIELD:</p> <p>6 Q. Ma'am, I understand you are talking about the</p> <p>7 police.</p> <p>8 MR. GREENFIELD: And I object and move to</p> <p>9 strike as non-responsive.</p> <p>10 BY MR. GREENFIELD:</p> <p>11 Q. I'm asking --</p> <p>12 A. No, I don't believe she should go to Southwest.</p> <p>13 I believe she should go to the police.</p> <p>14 MR. GREENFIELD: Thank you, Ms. Carter.</p> <p>15 THE WITNESS: You are welcome.</p> <p>16 THE COURT: Are you passing the witness?</p> <p>17 MR. GREENFIELD: Yes, I pass the witness.</p> <p>18 I apologize.</p> <p>19 THE COURT: Okay. Now we should take</p> <p>20 lunch.</p> <p>21 So you can only talk to your fellow</p> <p>22 jurors, not about the case. You can't talk to</p> <p>23 anyone else other than fellow jurors and court</p> <p>24 personnel. And don't do any research about the</p> <p>25 case.</p>	<p style="text-align: right;">Page 1820</p> <p>1 We will see you back here in one hour at</p> <p>2 1:33.</p> <p>3 All rise for the jury.</p> <p>4 (The jurors exited the courtroom.)</p> <p>5 THE COURT: Okay. So anything we need to</p> <p>6 cover? And I guess the age-old question of do I</p> <p>7 tell a witness, this witness, that they can't talk</p> <p>8 to anyone about the case? I'm trying to think of my</p> <p>9 recollection. And I think in non-overnight breaks,</p> <p>10 if they are continuous testimony on the stand, I ask</p> <p>11 them not to talk to a lawyer even if they have Fifth</p> <p>12 or Seventh Amendment rights.</p> <p>13 MR. PRYOR: Your Honor, I haven't talked</p> <p>14 to her since Friday or whatever, so it's not an</p> <p>15 issue.</p> <p>16 But I would like to know where we are</p> <p>17 going. Is this it?</p> <p>18 THE COURT: Any other witnesses that you</p> <p>19 plan to call after Ms. Carter?</p> <p>20 MR. GREENFIELD: I plan on resting, your</p> <p>21 Honor.</p> <p>22 THE COURT: Thanks.</p> <p>23 MR. PRYOR: Your Honor, there is a matter</p> <p>24 to raise.</p> <p>25 THE COURT: Yes.</p>
<p style="text-align: right;">Page 1821</p> <p>1 MR. PRYOR: I request just some additional</p> <p>2 time. And --</p> <p>3 THE COURT: Okay. Just a second.</p> <p>4 Ms. Carter, you don't have to stay</p> <p>5 standing anymore. You can leave the box. But I</p> <p>6 just ask you to not talk to anyone about the case</p> <p>7 during the lunch break, since you're still a</p> <p>8 witness.</p> <p>9 MR. PRYOR: And, your Honor, I think we</p> <p>10 might end up -- she would be happy to step outside</p> <p>11 for a minute while we talk if you are concerned</p> <p>12 about the rule with her.</p> <p>13 I'll have her step outside --</p> <p>14 THE COURT: That seems appropriate.</p> <p>15 MR. PRYOR: -- so I don't have to worry</p> <p>16 about it.</p> <p>17 Your Honor -- and I -- the case that they</p> <p>18 have put on, I think you can see that their defense</p> <p>19 to our claims did not require the same type of</p> <p>20 time-wise, document-wise, witness-wise that we were</p> <p>21 confronted with in presenting our case.</p> <p>22 And I also respectfully suggest to the</p> <p>23 Court, I have almost pulled a muscle not answering</p> <p>24 questions of witnesses that I would love to, and I</p> <p>25 fully acknowledge that we have not cut into muscle</p>	<p style="text-align: right;">Page 1822</p> <p>1 at all in terms of our ability to provide a trial</p> <p>2 for our client.</p> <p>3 Having said that, I am faced at closing</p> <p>4 with two parties that have an ocean of time, I think</p> <p>5 at this point they could have four hours of closing,</p> <p>6 and I have probably about 45 minutes. And that's --</p> <p>7 I need to spend time with this witness on</p> <p>8 cross-examination now.</p> <p>9 And so I know the Court has a bucket of</p> <p>10 three hours, and I would like some -- I think there</p> <p>11 should be some limit on -- a maximum limit on time</p> <p>12 to closing.</p> <p>13 I don't think the intent was to offer 12</p> <p>14 hours to the other side that they -- or 6, 12,</p> <p>15 whatever it was. I think you get my point.</p> <p>16 I don't think that the point was to allow</p> <p>17 them to not have a need for that time and then to</p> <p>18 clump it into closing, and I'm not saying that's</p> <p>19 what they did. But I would like some time</p> <p>20 protection in closing and I would like some</p> <p>21 additional time.</p> <p>22 There we go.</p> <p>23 THE COURT: Okay. So what I will say</p> <p>24 preliminarily, and then I will ask y'all's thoughts,</p> <p>25 on time protection in closing, I'm not going to give</p>

<p style="text-align: right;">Page 1823</p> <p>1 you all of their time and then tell them they can't</p> <p>2 use theirs, which is how I interpret the latter part</p> <p>3 of your request. I don't think you can do that.</p> <p>4 You can't take over their case.</p> <p>5 I'm not going to impose limits on closing.</p> <p>6 What I do is -- I don't do that on opening</p> <p>7 or closing. I give y'all a bucket of time and let</p> <p>8 y'all use the time as you see fit.</p> <p>9 So I will listen to arguments from Union</p> <p>10 and Southwest on how much more time they are asking</p> <p>11 for.</p> <p>12 But before I do, let me ask you, what is</p> <p>13 your concrete request on how much more time you</p> <p>14 would need? And I understand your arguments are you</p> <p>15 would use it on an adequate closing and you would</p> <p>16 use it on cross-examination of Carter. You made a</p> <p>17 reference at the sidebar to wanting to ask Sims</p> <p>18 questions in a rebuttal case.</p> <p>19 So what are you wanting and what is it</p> <p>20 for? I want to drill down and be very concrete.</p> <p>21 MR. PRYOR: It's difficult for me to be</p> <p>22 concrete.</p> <p>23 I would say I need 15 to 20 minutes with</p> <p>24 Ms. Carter on cross, and then I don't know what they</p> <p>25 will do, and I may need another five minutes after</p>	<p style="text-align: right;">Page 1824</p> <p>1 that.</p> <p>2 So I'm looking at using a substantial</p> <p>3 portion of my 45 minutes that I have left that I</p> <p>4 can't afford, and so I would ask that I have time</p> <p>5 for that.</p> <p>6 Then for closing -- and I understand what</p> <p>7 the Court is saying. I'm not asking for their time.</p> <p>8 I'm asking for a reasonable time limitation on</p> <p>9 closing. But I guess I would like an hour for</p> <p>10 closing. And I would -- assuming reasonable</p> <p>11 restrictions on them. But I understand the Court's</p> <p>12 position.</p> <p>13 THE COURT: Understood.</p> <p>14 Okay. So let me shift the baton over and</p> <p>15 ask Southwest and the Union for their positions.</p> <p>16 MR. McKEEBY: Our position is that we</p> <p>17 oppose the request for more time, your Honor.</p> <p>18 We have planned our trial presentation</p> <p>19 under the rules set forth by this Court, we have</p> <p>20 done our best to be efficient within those</p> <p>21 guidelines, and we frankly have made strategic</p> <p>22 decisions based on those time limitations.</p> <p>23 To wit, what we did with Mr. Schneider.</p> <p>24 We relied on the Court's rules and tried this case</p> <p>25 within those rules.</p>
<p style="text-align: right;">Page 1825</p> <p>1 To now give yet more time to plaintiffs</p> <p>2 is -- is not fair, particularly given what the Court</p> <p>3 mentioned yesterday about not holding any</p> <p>4 efficiencies on the side of defendants against us.</p> <p>5 I feel like that is effectively what is being done</p> <p>6 here. We have been efficient.</p> <p>7 And, frankly, I'm not comfortable</p> <p>8 criticizing opposing counsel, but they have not been</p> <p>9 efficient from the time -- from the very beginning</p> <p>10 of this case when my opening statement was</p> <p>11 interrupted on an issue that was entirely covered by</p> <p>12 a motion in limine ruling, to the constant sidebars,</p> <p>13 I won't say every time, but almost every time an</p> <p>14 objection to sustain, we are up there spending time.</p> <p>15 And, frankly, the examination style of</p> <p>16 opposing counsel, which is I understand something</p> <p>17 that is at some level effective and may have been so</p> <p>18 in the past, but it's questions that are vague and</p> <p>19 asked in a confrontational style.</p> <p>20 And that's fine, there is nothing wrong</p> <p>21 with that, but it is also not the type of</p> <p>22 examination technique that is going to lend itself</p> <p>23 to an efficient introduction of the testimony.</p> <p>24 So all of those considerations mitigate in</p> <p>25 favor of not providing any more time.</p>	<p style="text-align: right;">Page 1826</p> <p>1 THE COURT: Understood.</p> <p>2 Union position.</p> <p>3 MR. GREENFIELD: Yes. I think the most</p> <p>4 important thing to look at, from my vantage point,</p> <p>5 is an issue of prejudice.</p> <p>6 I have bent over backwards, I know</p> <p>7 personally, I'm not going to speak for Southwest,</p> <p>8 but to present our case in a way that complied with</p> <p>9 the original six hours you gave us. Now, ultimately</p> <p>10 you said maybe there might be more time if we needed</p> <p>11 it.</p> <p>12 The way I asked questions about Southwest</p> <p>13 witnesses, the way I asked questions about -- to</p> <p>14 Ms. Stone, if I knew all of this entire -- if we</p> <p>15 were going to rip up the time sheets, I would have</p> <p>16 approached the case completely differently. I tried</p> <p>17 to play within the rules of the game that you set</p> <p>18 forth.</p> <p>19 And I don't believe they want to do that</p> <p>20 or have ever had any intention of doing that, your</p> <p>21 Honor. They have been asking since the very moment</p> <p>22 the trial started for more time. They asked for</p> <p>23 more time before it started. You said no. They</p> <p>24 asked for more time after their opening. They asked</p> <p>25 for more time almost after every witness.</p>

<p style="text-align: right;">Page 1827</p> <p>1 It has never been their intention to 2 comply with the timing rules you presented, your 3 Honor. 4 MR. PRYOR: Response. 5 THE COURT: Briefly. 6 MR. PRYOR: First of all, we are all 7 operating under the same order here, and that order 8 says that you can ask for more time. We all know 9 that is an opportunity that your order affords. So 10 no one is being prejudiced. 11 The second is, in terms of our 12 efficiencies, while we have foregone questions we 13 would love to ask of numerous witnesses, and I think 14 that we have been as efficient as we can within the 15 bounds of zealously representing our client's 16 position to this Court, I don't think it's 17 unreasonable, given we are dealing with two parties 18 here that are aligned, that don't have the same 19 burdens and efforts required to put on our case that 20 they are dealing with. 21 I'd ask the Court for more time so we can 22 adequately cross-examine Ms. Carter and adequately 23 summarize the evidence in our closing. 24 THE COURT: Okay. So here is my ruling. 25 I'm going to give you a few more minutes,</p>	<p style="text-align: right;">Page 1828</p> <p>1 but not nearly what you want, and not for the 2 reasons that any of us have talked about. 3 I'm going to give you 15 more minutes for 4 the purpose of cross-examining Carter, and here is 5 why. 6 When I let you get into the arbitration 7 testimony, if I'm a juror sitting over here, I'm 8 wondering, why wasn't this decided in arbitration? 9 I think it is fair game for you to ask her 10 on cross-examination if her claims that are 11 presented in this lawsuit at this time were at issue 12 in the arbitration. I think you can do that without 13 running afoul of my motion in limine and correct any 14 conceptions that the jury may have. 15 I'm going back to the other points that 16 y'all made. I echo them, and that is the reason why 17 I'm not granting more time to you. 18 But I do think that there is this -- 19 perhaps an inference now regarding arbitration that 20 you are entitled to clean up. 21 I did give you the leeway of going there, 22 and I don't think you crossed over the line that I 23 was thinking of, which I appreciate. But it does 24 leave the jurors with a question in their minds of, 25 well, why are we here? Why didn't this end at</p>
<p style="text-align: right;">Page 1829</p> <p>1 arbitration? 2 Okay. So what did I say? 15 minutes. So 3 you have 15 minutes that doesn't count to the other 4 46 minutes you have already got. 5 MR. PRYOR: If I use ten, can I keep my 6 five? 7 THE COURT: I'll give you the 15 to use 8 how you see fit, but I need you to use it wisely. 9 Does that make sense? 10 MR. PRYOR: It does. 11 THE COURT: So you are now sitting at an 12 hour and one minute. 13 MR. GREENFIELD: And that includes his 14 time for closing? 15 THE COURT: Yes. And I'm not putting a 16 limit on how much of your time you are going to use 17 for closing. 18 I will tell everyone, before I go into 19 closing, you can take as much time as you want. 20 I've never seen a closing that lasted upwards of an 21 hour that a jury appreciated, right? So you can 22 take that for what you will. 23 But jurors appreciate succinct closings 24 and they're more powerful if they do succinctly 25 summarize the evidence. Get to the point and then</p>	<p style="text-align: right;">Page 1830</p> <p>1 end the closing argument. 2 All right. Any other issues before we 3 come back? 4 Okay. So when we come back, you are going 5 to cross-examine. We will go through however many 6 rounds we go through. You've got your extra 15 7 minutes. But then at the point that you rest, 8 because this is your last witness, then we will kick 9 the jury out, have another motion, I will rule on 10 both motions, and we will proceed from there. 11 MR. McKEEBY: Your Honor, two questions. 12 Do I get the opportunity to examine Ms. Stone -- I 13 mean Ms. Carter? 14 THE COURT: I should have asked you next. 15 Why did I go out of order? 16 I'm sorry. I should have asked you next. 17 Based on -- 18 MR. McKEEBY: He rested, so it should be 19 me next, and then -- 20 THE COURT: Yes. So I didn't tell you you 21 can go next. So you should be next, Mr. McKeeby, 22 and then he'll go. 23 MR. McKEEBY: And it is not going to be 24 much. 25 THE COURT: Right. And then we will go</p>

<p style="text-align: right;">Page 1831</p> <p>1 back for a round two if needed.</p> <p>2 MR. McKEEBY: It is not going to be long.</p> <p>3 THE COURT: But thank you. I'm used to</p> <p>4 going in a wheel this way, and I need to -- the</p> <p>5 wheel is now different.</p> <p>6 MR. McKEEBY: The other question is may</p> <p>7 Mr. Sims be excused?</p> <p>8 MR. PRYOR: Yes.</p> <p>9 THE COURT: Okay. Any other questions?</p> <p>10 So I think I cut the jury loose at 12:33,</p> <p>11 so 1:33 is when we should back in here. See you</p> <p>12 soon.</p> <p>13 THE COURT SECURITY OFFICER: All rise.</p> <p>14 (Recess.)</p> <p>15 THE COURT SECURITY OFFICER: All rise.</p> <p>16 THE COURT: Thank you. One quick update</p> <p>17 before we get the jury. Y'all should get jury</p> <p>18 questions any minute, the latest round from me.</p> <p>19 So we will come back in, we will finish up</p> <p>20 this round. Then I will kick the jury out for</p> <p>21 motions and rulings. And then see if you have a</p> <p>22 rebuttal case when the jury comes back in.</p> <p>23 And then if you don't have a rebuttal</p> <p>24 case, then I need to send them out because I'm</p> <p>25 assuming there is going to be a renewed Rule 29</p>	<p style="text-align: right;">Page 1832</p> <p>1 motion. Then bring the jury back in. And then we</p> <p>2 will see what time we are. We may just send them</p> <p>3 home early for the day, so we can do charge</p> <p>4 conference and printing it.</p> <p>5 If we have beaucoup of time, I will keep</p> <p>6 them around. But I want to make sure we have time</p> <p>7 for the formal charge conference and printing the</p> <p>8 charge.</p> <p>9 Does that make sense for a run of show?</p> <p>10 Any questions?</p> <p>11 Okay. We will bring them in.</p> <p>12 (The jurors entered the courtroom.)</p> <p>13 THE COURT: Thank you. Be seated.</p> <p>14 Okay. So Mr. Greenfield, you passed on</p> <p>15 the witness.</p> <p>16 Which means, Mr. McKeeby, do you have</p> <p>17 questions?</p> <p>18 MR. McKEEBY: No questions for the</p> <p>19 witness.</p> <p>20 THE COURT: Okay. So now I need to ask</p> <p>21 you, Mr. Pryor, do you want to question the witness?</p> <p>22 CROSS-EXAMINATION</p> <p>23 BY MR. PRYOR:</p> <p>24 Q. Ms. Carter, I feel like we have been here</p> <p>25 before, but let me ask you, in terms of saying</p>
<p style="text-align: right;">Page 1833</p> <p>1 anything you want to say, whether it be religious</p> <p>2 speech, union activity, do you believe that that</p> <p>3 includes you should be able to engage in illegal</p> <p>4 speech?</p> <p>5 MR. GREENFIELD: Objection, your Honor,</p> <p>6 leading the witness.</p> <p>7 MR. PRYOR: It's redirect.</p> <p>8 THE COURT: I'll allow it.</p> <p>9 THE WITNESS: No, not illegal speech.</p> <p>10 BY MR. PRYOR:</p> <p>11 Q. And if you defamed someone, if you say</p> <p>12 something knowingly false, do you think you should</p> <p>13 be able to get sued for that?</p> <p>14 A. Oh, yes, yes.</p> <p>15 MR. GREENFIELD: Objection, your Honor</p> <p>16 leading the witness.</p> <p>17 THE COURT: I'll allow it.</p> <p>18 BY MR. PRYOR:</p> <p>19 Q. And also, you talked about the workplace</p> <p>20 itself. You agree to that there should be</p> <p>21 reasonable limitations so you can keep peace in the</p> <p>22 workplace?</p> <p>23 A. Yes.</p> <p>24 Q. Okay.</p> <p>25 You didn't sign the recall petition because</p>	<p style="text-align: right;">Page 1834</p> <p>1 were an objector and you weren't allowed to sign it,</p> <p>2 right?</p> <p>3 A. Correct.</p> <p>4 Q. The Step 2 and arbitration, you were asked some</p> <p>5 questions that led to those two topics. Just want</p> <p>6 to make sure we are still very clear on that, that</p> <p>7 those processes did not involve your claims as to</p> <p>8 your religious freedoms and your union activities</p> <p>9 that are before this court today, true?</p> <p>10 A. That is correct.</p> <p>11 Q. Mistake.</p> <p>12 The mistake that you are talking about is a</p> <p>13 mistake of, I used social media and that gave them a</p> <p>14 free shot at me?</p> <p>15 A. Correct.</p> <p>16 Q. And counsel is asking you questions about the N</p> <p>17 word and threats to people, and whether or not even</p> <p>18 if it is union activity, it should be reported to</p> <p>19 the company.</p> <p>20 Do you see an irony in a union coming in here</p> <p>21 and talking about wanting the company to be involved</p> <p>22 in union activity?</p> <p>23 A. Yes.</p> <p>24 Q. Is that the Local 556 that you feel is corrupt</p> <p>25 and that is one of the reasons you are here?</p>

<p style="text-align: right;">Page 1835</p> <p>1 A. Yes.</p> <p>2 MR. GREENFIELD: Objection, your Honor,</p> <p>3 leading the witness. If I can have a running</p> <p>4 objection.</p> <p>5 THE COURT: I'll give you the running</p> <p>6 objection. I'll sustain that last objection.</p> <p>7 Can you rephrase?</p> <p>8 BY MR. PRYOR:</p> <p>9 Q. Ma'am, do you believe, as you sit here today,</p> <p>10 that you had the right to send the complaints that</p> <p>11 you did, along with the videos that you sent, to the</p> <p>12 private Facebook message of Audrey Stone TWU, your</p> <p>13 union president?</p> <p>14 A. Yes.</p> <p>15 Q. Do you believe that you had the religious right</p> <p>16 to post on Facebook what you did that you got fired</p> <p>17 for?</p> <p>18 A. Yes.</p> <p>19 MR. PRYOR: Thank you.</p> <p>20 THE COURT: Okay. So round two,</p> <p>21 Mr. Greenfield.</p> <p>22 MR. GREENFIELD: None, your Honor.</p> <p>23 THE COURT: Okay.</p> <p>24 Mr. McKeeby, anything?</p> <p>25 MR. McKEEBY: No questions.</p>	<p style="text-align: right;">Page 1836</p> <p>1 THE COURT: Okay. And you, one last</p> <p>2 question --</p> <p>3 MR. PRYOR: No questions on my questions,</p> <p>4 your Honor.</p> <p>5 THE COURT: That's right, you don't need</p> <p>6 to question based on your questions.</p> <p>7 Okay. Ms. Carter, again, you can leave</p> <p>8 the witness box and return to your rightful seat in</p> <p>9 the courtroom.</p> <p>10 Okay. Any other witnesses that the union</p> <p>11 wants to put on during its case?</p> <p>12 MR. GREENFIELD: The union rests, your</p> <p>13 Honor.</p> <p>14 THE COURT: Okay. So remember, any time</p> <p>15 someone says the word "rest," now y'all got to go</p> <p>16 back out for your break. I'm sorry.</p> <p>17 So same instructions as always: You can</p> <p>18 talk to your fellow jurors and court personnel, not</p> <p>19 about the case; can't talk to anyone else; can't do</p> <p>20 any research. We will see you here in a few</p> <p>21 minutes.</p> <p>22 All rise for the jury.</p> <p>23 (The jurors exited the courtroom.)</p> <p>24 THE COURT: Okay. You can be seated.</p> <p>25 Okay. So now we've had both Defendants</p>
<p style="text-align: right;">Page 1837</p> <p>1 rest, so let me turn it back to you, Mr. Gilliam.</p> <p>2 You can make your motion as to the union, and then I</p> <p>3 held in abeyance my ruling as to Southwest and your</p> <p>4 motion as to Southwest. So I need to rule on both</p> <p>5 of those motions. So I will turn the floor over to</p> <p>6 you. You can go there or the podium. I don't -- I</p> <p>7 can keep looking over at you like this.</p> <p>8 MR. GILLIAM: I like the podium a little</p> <p>9 bit better.</p> <p>10 So at this time, we would move for</p> <p>11 directed verdict against Local 556 on all claims, as</p> <p>12 to liability.</p> <p>13 Let's start first with the RLA retaliation</p> <p>14 claim. We've -- the testimony and all of the</p> <p>15 evidence has shown that Ms. Stone reported</p> <p>16 Ms. Carter for her Facebook videos and messages that</p> <p>17 were privately sent to her that were talking about</p> <p>18 nothing but union -- well, opposing the Women's</p> <p>19 March and union activity, RLA-protected activity.</p> <p>20 Ms. Stone couldn't identify anything that</p> <p>21 wasn't RLA-protected activity.</p> <p>22 All of those posts on their face, they</p> <p>23 mention the recall, they mention objecting to the</p> <p>24 union's use of dues, they were opposing the union's</p> <p>25 activities at the Women's March.</p>	<p style="text-align: right;">Page 1838</p> <p>1 So there is -- Ms. Stone was, like I said,</p> <p>2 never able to identify anything that wasn't</p> <p>3 protected activity.</p> <p>4 Ms. Stone was acting within the scope of</p> <p>5 her official capacity. Everything that Ms. Carter</p> <p>6 sent her addressed union activities. They never had</p> <p>7 any personal/interpersonal communications about work</p> <p>8 or about anything else about -- apart from the union</p> <p>9 and the union's activities.</p> <p>10 Local 556 Vice President Nevarez testified</p> <p>11 you cannot separate the employee from the union</p> <p>12 president. She's always acting in the presidential</p> <p>13 capacity.</p> <p>14 Ms. Carter sent her messages to the Audrey</p> <p>15 Stone TWU account. And Ms. Stone testified that she</p> <p>16 used that Audrey Stone TWU account for union</p> <p>17 business.</p> <p>18 Also, Ms. Stone copied on her complaint</p> <p>19 Naomi Hudson, the Southwest negotiating -- CBA</p> <p>20 negotiating chair of their negotiating committee and</p> <p>21 director of labor relations, as well as the vice</p> <p>22 president, Sonya Lacore.</p> <p>23 And historically, Ms. Stone's interactions</p> <p>24 with these officials at Southwest was in the</p> <p>25 capacity of negotiating social media discipline and</p>

<p style="text-align: right;">Page 1839</p> <p>1 clemency for employees.</p> <p>2 So of course, when she's engaging them,</p> <p>3 she's acting within that capacity as well.</p> <p>4 The -- and again, the videos and Facebook</p> <p>5 messages privately sent to Ms. Stone were a</p> <p>6 substantial or motivating factor.</p> <p>7 There was another factor, we argue, as</p> <p>8 Ms. Carter's religious beliefs, and we will move to</p> <p>9 those in a second. But as to the RLA activity that</p> <p>10 Ms. Carter engaged in, that was a motivating factor.</p> <p>11 When Ms. Stone reported Ms. Carter, her complaint in</p> <p>12 Exhibit 66 revealed that she's -- that Ms. Carter</p> <p>13 was talking to her about events that transpired at</p> <p>14 the Women's March, about events that she and the</p> <p>15 union had participated in there.</p> <p>16 And she also referred to Ms. Carter's</p> <p>17 political comments. So in her meeting with</p> <p>18 Southwest, she -- she was asked about Charlene</p> <p>19 Carter and said she's very anti-union.</p> <p>20 And what did she ask Southwest to do? She</p> <p>21 said, Make Charlene and Chris Click, another recall</p> <p>22 supporter and union opponent, to stop. Make them</p> <p>23 stop.</p> <p>24 Now, as for any sort of affirmative</p> <p>25 defense, there is no affirmative defense that Local</p>	<p style="text-align: right;">Page 1840</p> <p>1 556 could raise. It could raise -- its affirmative</p> <p>2 defense has to be a non-discriminatory reason.</p> <p>3 There are no non-discriminatory reasons. The only</p> <p>4 reason would be Ms. Carter sending these videos and</p> <p>5 messages that upset her.</p> <p>6 But that is protected activity.</p> <p>7 The reason -- well, the affirmative</p> <p>8 defense has to be a non-discriminatory reason,</p> <p>9 because if it is the same reason, there is no point</p> <p>10 to the RLA's protections at all, and the statutory</p> <p>11 text is totally eviscerated.</p> <p>12 So there has got to be a point to those</p> <p>13 RLA protections.</p> <p>14 Now, let's move on to the Title VII</p> <p>15 cause -- attempt to cause religious discrimination.</p> <p>16 Again, I addressed how Ms. Stone was</p> <p>17 acting in her official Local 556 capacity when she</p> <p>18 reported Ms. Carter. Clearly, she attempted to</p> <p>19 cause Southwest to discriminate against her. I</p> <p>20 think it is clear that she was wanting Southwest</p> <p>21 to -- to terminate her, but at least discipline her,</p> <p>22 because she talked about all of the activities she</p> <p>23 engaged in in her complaint, and then started</p> <p>24 listing all of the different policies that Southwest</p> <p>25 could terminate Ms. Carter under.</p>
<p style="text-align: right;">Page 1841</p> <p>1 Policies that Ms. Stone had experience</p> <p>2 with. Ms. Stone, in her social media statement that</p> <p>3 she had released just two years before, said,</p> <p>4 Employees are getting turned in and terminated for</p> <p>5 these policies, for violating these policies.</p> <p>6 So Ms. Stone knew exactly what the results</p> <p>7 of her actions could be.</p> <p>8 Importantly, on this religious</p> <p>9 discrimination claim against Local 556, Ms. Stone's</p> <p>10 email refers to Ms. Carter's religious comments. So</p> <p>11 she knew exactly what she was reporting them for,</p> <p>12 for these Facebook videos and messages.</p> <p>13 So the other religious discrimination</p> <p>14 claim against Local 556. Ms. Stone knows what the</p> <p>15 duty of fair representation is. So she -- she knows</p> <p>16 that treating -- that turning someone in for their</p> <p>17 religious comments is, per se, treating them</p> <p>18 differently from all of the other represented</p> <p>19 employees that she knows she has to defend and</p> <p>20 protect based on her duty of fair representation.</p> <p>21 So it is, per se, discrimination.</p> <p>22 She -- Ms. Stone also knew exactly what</p> <p>23 she was doing because she testified that she talked</p> <p>24 to her lawyers about accommodation and religious</p> <p>25 discrimination.</p>	<p style="text-align: right;">Page 1842</p> <p>1 She -- Ms. Stone's actions were in bad</p> <p>2 faith as well, because she -- she believed that --</p> <p>3 she testified to her belief that any employee</p> <p>4 should -- who was engaging in protected activities</p> <p>5 with the union should be protected and that the</p> <p>6 Southwest policies don't apply. Ms. Stone testified</p> <p>7 to that.</p> <p>8 But she turned Carter in anyway.</p> <p>9 And I think that these particular</p> <p>10 religious discrimination issues, they get to the</p> <p>11 duty of fair representation claim as well. Because</p> <p>12 the discriminatory prong of arbitrary,</p> <p>13 discriminatory and in bad faith is religious</p> <p>14 discrimination.</p> <p>15 So by engaging in religious</p> <p>16 discrimination, Ms. Carter -- I mean, I'm sorry --</p> <p>17 Ms. Stone and Local 556 violate the duty of fair</p> <p>18 representation.</p> <p>19 And the bad faith prong, again, just --</p> <p>20 just described was that she believed that any time a</p> <p>21 represented employee communicates with the union</p> <p>22 about union activities is protected and Southwest</p> <p>23 policies don't apply.</p> <p>24 She negotiated that in the Collective</p> <p>25 Bargaining Agreement.</p>

<p style="text-align: right;">Page 1843</p> <p>1 Again, she turned Ms. Carter in anyway. 2 Let's get to the failure to accommodate 3 claim. 4 I will be quick here. 5 So here you have President Stone acting on 6 behalf of Local 556, reporting Ms. Carter. She -- 7 she could have engaged in conversations with 8 Ms. Carter. She could have simply blocked her and 9 prevented her from having more communications, and 10 that was at least short of terminating her 11 employment. 12 So for that reason, just by the act of 13 turning Ms. Carter in, Audrey Stone, on behalf of 14 Local 556, who knew her affirmative obligations 15 under Title VII -- again, she testified to having 16 discussed those with a lawyer, she was well aware of 17 them -- knowing her affirmative obligations under 18 the duty of fair representation, repudiated any 19 obligation to take actions to make an exception for 20 Ms. Carter, make an exception for her religious 21 observances, beliefs and practices, and turned her 22 in. 23 And going back to the duty of fair 24 representation. So I did address the discriminatory 25 and in bad faith prongs. The -- as for the</p>	<p style="text-align: right;">Page 1844</p> <p>1 arbitrary prong, under the Northern District of 2 Texas case McCall, treating someone differently 3 based on their -- their -- any sort of political 4 differentiation between represented employees is an 5 arbitrary action on the part of the Union president. 6 And even though I go through those 7 arbitrary, discriminatory and in bad faith prongs, 8 the fact is, is that the union has failed to meet a 9 couple of its -- its own burdens. 10 First of all, there is a presumption that 11 a union official acts in her official capacity. And 12 the union has not presented any evidence whatsoever 13 that she was acting outside of her official 14 capacity. 15 There is also the presumption that the 16 union breaches the duty of fair representation when 17 it causes another employee to be disciplined. 18 And there -- they must show, the union 19 must show, that President Stone acted in good faith 20 with rationale considerations, and representing its 21 constituency as a whole. 22 By President Stone's own definition, she 23 acted in bad faith because she turned in a 24 represented employee when she knows that Southwest 25 policies shouldn't be meddling in their</p>
<p style="text-align: right;">Page 1845</p> <p>1 communications. 2 And it was -- it was Ms. Carter's protest 3 of the Women's March and union dissident activities 4 that -- that motivated Ms. Stone, not -- there were 5 no other rational considerations that the union has 6 shown. 7 And also, the third thing -- and these are 8 conjunctive elements -- the union also has to show 9 that it was representing its constituency as a 10 whole. How could it possibly be representing its 11 constituency as a whole when it is turning in a 12 protected employee for protected activities? 13 That doesn't represent the constituency as 14 a whole, it has -- it is targeting one member who 15 was opposing the union and who was supporting the 16 recall. 17 So again, I would like to also 18 specifically address how -- there were two 19 motivations here for Local 556 and Southwest. And 20 they wanted to discipline Ms. Carter for Facebook 21 videos and messages, and they were both RLA 22 protected and they were protected by Title VII. 23 The posts on Ms. Carter's Facebook page 24 were -- were protected under Title VII. She was 25 exercising her religious observances, beliefs and</p>	<p style="text-align: right;">Page 1846</p> <p>1 practices and sharing her views with other flight 2 attendants. 3 And as for Southwest's defense of a nexus, 4 these -- these posts that they found that justified 5 their nexus were years old. And that the 6 uncontroverted testimony shows that these were three 7 to four years old and nobody ever disputed that, 8 nobody ever showed differently. 9 So for all of these reasons, I think the 10 Court should grant a directed verdict on all claims 11 against Southwest and Local 556. 12 THE COURT: Okay. Thank you, Mr. Gilliam. 13 Mr. Greenfield, can I hear your response? 14 MR. GREENFIELD: Yes, your Honor. 15 I think this case is interesting and 16 unique from the standpoint of we have four different 17 causes of action. Every single cause of action is 18 tied to the very same fact, right? 19 Reasonable accommodation. Failed to 20 accommodate Ms. Stone because -- or failed to 21 accommodate Ms. Carter because Ms. Stone turned her 22 in. 23 Religious discrimination. They 24 discriminated against her because they -- Ms. Stone 25 turned her in.</p>

<p style="text-align: right;">Page 1847</p> <p>1 DFR claim. Violated because we turned her</p> <p>2 in. Not about any other representation throughout</p> <p>3 the whole process.</p> <p>4 Same thing with the RLA.</p> <p>5 All their claims came down to this one</p> <p>6 issue.</p> <p>7 And I think we have presented evidence</p> <p>8 that support every element of all of those claims.</p> <p>9 And I think we can start at the beginning with</p> <p>10 official capacity.</p> <p>11 And we will talk about this at the jury</p> <p>12 charge, but official capacity is dispositive of</p> <p>13 every single cause of action against the union. If</p> <p>14 Ms. Stone was not acting in her official capacity,</p> <p>15 then in no way could she bind the union, she was</p> <p>16 just an employee.</p> <p>17 So let's start with evidence that has come</p> <p>18 on about her official capacity.</p> <p>19 That is in dispute. That is why we made</p> <p>20 past summary judgment. That is why we are here</p> <p>21 before the Court. And some of the evidence that has</p> <p>22 come out, we know that even Charlene Carter's own</p> <p>23 exhibits show that the messages she sent were to</p> <p>24 Audrey Stone, not Audrey Stone TWU. That is not</p> <p>25 what the evidence shows.</p>	<p style="text-align: right;">Page 1848</p> <p>1 That is what they have argued. They have</p> <p>2 argued that Ms. Stone changed it. Their argument is</p> <p>3 going to be that she changed it afterwards. But</p> <p>4 that is not what the exhibits show. That is not</p> <p>5 what Ms. Carter's evidence shows that she turned in</p> <p>6 to the company.</p> <p>7 Witness after witness testified that</p> <p>8 employees don't lose their rights when they become</p> <p>9 president of the Union. Ms. Stone was acting in her</p> <p>10 capacity as an employee when she turned her in. She</p> <p>11 has always that right. She never loses her rights</p> <p>12 as an employee. Otherwise, her Title VII rights,</p> <p>13 her rights to be free from harassment and</p> <p>14 discrimination in the workplace become subservient</p> <p>15 to Ms. Carter's.</p> <p>16 Witness after witness testified that the</p> <p>17 communications went too far. And that</p> <p>18 Ms. Stone's -- or Ms. Carter's communications lost</p> <p>19 their protection.</p> <p>20 Speech can be protected in one part and</p> <p>21 still be harassing and violative of the law and lose</p> <p>22 those protections at the same time. The underlying</p> <p>23 basis, she was dissenting against her union, agreed.</p> <p>24 No dispute.</p> <p>25 It was about her religious beliefs.</p>
<p style="text-align: right;">Page 1849</p> <p>1 Agreed, no dispute.</p> <p>2 So that in and of itself is protected.</p> <p>3 But it then can lose -- it can lose that protection</p> <p>4 and become harassing. We could all agree that if</p> <p>5 Ms. Carter had sent the very same messages but left</p> <p>6 a -- but tied around a note on a chopped off horse</p> <p>7 head and left it at Ms. Stone's front door, we have</p> <p>8 gone too far. We can't do that.</p> <p>9 Or if it's tied to some sort of criminal</p> <p>10 act, you can't do that. At some point, it loses</p> <p>11 protection and it does cross over to being</p> <p>12 harassing.</p> <p>13 Regarding retaliation, we have also put on</p> <p>14 temporal proximity evidence. Ms. Carter has been</p> <p>15 anti-union since at least 2013. She sent</p> <p>16 hundreds -- at least 100 -- I counted 98 pages of</p> <p>17 private messages to Ms. Stone and no action was</p> <p>18 taken against her.</p> <p>19 She opposed she was part of the recall</p> <p>20 petition in 2015. Ms. Stone didn't file any charges</p> <p>21 on that.</p> <p>22 Excuse me, your Honor.</p> <p>23 THE COURT: It is okay.</p> <p>24 MR. GREENFIELD: Just over and over, these</p> <p>25 communications have gone on for years. And</p>	<p style="text-align: right;">Page 1850</p> <p>1 Ms. Carter agreed to that, that she had been</p> <p>2 dissenting against the union. She was against the</p> <p>3 first tentative agreement as well. Again, no</p> <p>4 actions were taken by Ms. Stone.</p> <p>5 It all came after these specific videos.</p> <p>6 Okay? And that is where we argue it went too far</p> <p>7 and she lost her protection.</p> <p>8 Regarding religion, we put on several</p> <p>9 pieces of evidence regarding that, including that</p> <p>10 Ms. Stone herself is pro life. So they are asking</p> <p>11 the jury, and you as a matter of law, to ignore</p> <p>12 that, the fact that Ms. Stone, as a pro life</p> <p>13 individual, is discriminating against Ms. Carter for</p> <p>14 her pro life stances. That obviously should go</p> <p>15 before the jury and should be weighed.</p> <p>16 Ms. Carter couldn't identify a single</p> <p>17 individual who was treated more favorably than her.</p> <p>18 It is just her.</p> <p>19 On the failure to accommodate claim,</p> <p>20 again, it ties back to the message itself. That it</p> <p>21 was turned in -- that doing that -- but preventing</p> <p>22 that, again, ties back to the official capacity</p> <p>23 argument. If Ms. Stone made that as an employee,</p> <p>24 she reserved the right to do that. She never</p> <p>25 relinquishes the right to be free from harassment</p>

<p style="text-align: right;">Page 1851</p> <p>1 and discrimination in the workplace.</p> <p>2 And so the only accommodation that she</p> <p>3 sought was that Ms. Stone not turn her in. That is</p> <p>4 it.</p> <p>5 And then we have several, several issues</p> <p>6 of causation. Numerous parts of each claim that</p> <p>7 Ms. Carter brings requires that they show beyond a</p> <p>8 preponderance of the evidence that we caused the</p> <p>9 termination.</p> <p>10 That certainly is in dispute. Witness</p> <p>11 after witness from Southwest testified that the</p> <p>12 union had no interference into their investigation</p> <p>13 process, had no weighing on the decision to</p> <p>14 terminate. That was Southwest's decision.</p> <p>15 And I believe that is actually very</p> <p>16 heavily tied to Southwest's legitimate</p> <p>17 non-discriminatory reason for the termination, which</p> <p>18 you considered earlier in denying their motion on</p> <p>19 that.</p> <p>20 I have nothing else, your Honor.</p> <p>21 THE COURT: All right. Thank you,</p> <p>22 Mr. Greenfield.</p> <p>23 So at this point, I will say that I have</p> <p>24 both the directed verdict motions against Southwest</p> <p>25 and the union fully argued. So I'm going to deny</p>	<p style="text-align: right;">Page 1852</p> <p>1 both of those motions at this point. Like I said, I</p> <p>2 never explain our reasons for what I'm doing, why I</p> <p>3 am doing it. I just state my ruling on the record.</p> <p>4 So based on that, we need to bring back in</p> <p>5 the jury so we can hear if you have witnesses for a</p> <p>6 rebuttal case. Yeah, that is fine. And then we</p> <p>7 would close, close, close.</p> <p>8 And then at this point, it is a close call</p> <p>9 on whether there is any chance we could do a formal</p> <p>10 charge conference, print the behemoth charge, and</p> <p>11 read it by 5:00.</p> <p>12 I think it will probably take me an hour</p> <p>13 and a half to read it to them. I figure it will</p> <p>14 take us an hour and a half to do a formal charge</p> <p>15 conference and print it. Should we go for it?</p> <p>16 Should we not? What do y'all think?</p> <p>17 MR. PRYOR: What are you thinking of in</p> <p>18 terms of start time tomorrow for closing?</p> <p>19 THE COURT: So assuming we do a formal</p> <p>20 charge conference today, send them home, then I</p> <p>21 would think tomorrow at 9:00 we start, whether we</p> <p>22 are starting with a reading of the charge tomorrow</p> <p>23 or if we by some miracle get it read to them at the</p> <p>24 end of the day today. So I think 9:00 tomorrow is</p> <p>25 our start time regardless.</p>
<p style="text-align: right;">Page 1853</p> <p>1 The one question I have for y'all is, do</p> <p>2 we try to keep them here and do a formal charge</p> <p>3 conference and print it so I can read them the</p> <p>4 charge and get that done by 5? Or do we send them</p> <p>5 home and say we are just doing the formal charge</p> <p>6 conference today, getting it printed, and then we</p> <p>7 will read it first thing tomorrow? Any thoughts?</p> <p>8 MR. PRYOR: I'm going to turn to over to</p> <p>9 my lawyer.</p> <p>10 MR. McKEEBY: I think I would just send</p> <p>11 them home. I mean, I think since it is not clear</p> <p>12 that we are even going to get to it -- well, I mean,</p> <p>13 I think it is fair to send them home rather than</p> <p>14 keep them here with the hope that we would be able</p> <p>15 to get to it. But obviously, that is your call.</p> <p>16 THE COURT: That is my leaning. I'm</p> <p>17 always optimistic around timing and it never works</p> <p>18 out as fast as I think it will, right? Both my</p> <p>19 reading of it and the formal charge conference.</p> <p>20 MR. GREENFIELD: I agree, your Honor.</p> <p>21 THE COURT: Any objection to we will bring</p> <p>22 them back in; more witnesses, no; close, close,</p> <p>23 close, send them home; and then we will go from</p> <p>24 there?</p> <p>25 MS. GREEN: I think that is appropriate,</p>	<p style="text-align: right;">Page 1854</p> <p>1 your Honor.</p> <p>2 THE COURT: Okay. Let's do it.</p> <p>3 (The jurors entered the courtroom.)</p> <p>4 THE COURT: Okay. You can be seated.</p> <p>5 Okay. I mentioned at the outset of trial,</p> <p>6 sometimes plaintiffs call rebuttal cases, so I need</p> <p>7 to ask you, Mr. Pryor, does the plaintiff have any</p> <p>8 more witnesses they want to call for a rebuttal</p> <p>9 case?</p> <p>10 MR. PRYOR: The plaintiff has no rebuttal</p> <p>11 case, your Honor.</p> <p>12 THE COURT: Okay. So does that mean the</p> <p>13 plaintiff closes?</p> <p>14 MR. PRYOR: The plaintiff's case closes</p> <p>15 and is closed.</p> <p>16 THE COURT: Okay. So that means</p> <p>17 Southwest, now. Is Southwest closing?</p> <p>18 MR. McKEEBY: Southwest is closed.</p> <p>19 THE COURT: Okay. How about the Union?</p> <p>20 MR. GREENFIELD: The Union is closed, your</p> <p>21 Honor.</p> <p>22 THE COURT: Okay. We heard rest, close,</p> <p>23 close, close. What that means is, y'all get an</p> <p>24 early day to go home while we have to sit here and</p> <p>25 hash through a really long jury charge that I get to</p>

<p style="text-align: right;">Page 1855</p> <p>1 read to you first thing tomorrow morning. 2 So what is left of the trial is, I read 3 you the jury charge, then we have closing arguments 4 from Carter, Southwest and the Union, and then the 5 case is yours. We hand the baton to you. 6 We have been working through the jury 7 charge since this case began and before then, but we 8 still have to work through all the legal argument, 9 now that the evidence is in, right? We didn't know 10 what the evidence would be until they all said, 11 closed. 12 So we need to stick around today for a few 13 more hours to finalize the jury charge, so that 14 tomorrow at 9:00, I can read it to you. It may take 15 an hour and a half. It is pretty long. I wish my 16 reading voice were like James Earl Jones', but it is 17 not. 18 So come caffeinated tomorrow at 9:00. You 19 will hear me boringly read a charge. And then you 20 will hear some excited closing arguments from these 21 talented lawyers. And then the case will be yours, 22 at long last. 23 So thank you for your careful attention 24 these past two weeks. I'm giving you the afternoon 25 off, but that doesn't mean you have to tell your</p>	<p style="text-align: right;">Page 1856</p> <p>1 family or your employers, right? Go do what you 2 want to do. 3 So thank you for your careful attention. 4 Same instructions, though. Because until I say, Go 5 deliberate, then you can't talk to each other about 6 the case. You can talk to each, just not about the 7 case. You can't talk to anyone else. And don't do 8 any research on the case. All rise for the jury. 9 (The jurors exited the courtroom.) 10 THE COURT: Okay. Y'all can be seated. 11 I'm probably going to let us take a break 12 before we launch into the formal charge conference. 13 But let me ask, does everyone want to renew their 14 directed verdict motions? I know we didn't hear 15 really any evidence since we just talked about the 16 most recent ones. But does everyone want to renew 17 their directed verdict motions for posterity? 18 MR. McKEEBY: Yes, your Honor. 19 MR. GREENFIELD: Yes. 20 MR. GILLIAM: Yes. 21 THE COURT: Yes, yes, yes. Okay. I have 22 heard your renewed motions. I'm rejecting all of 23 them, without saying why still again. So that 24 ruling is on the record, so you preserved your 25 error.</p>
<p style="text-align: right;">Page 1857</p> <p>1 So let's take a 10-minute break. Y'all 2 can get reset, and then we will come back in and 3 talk about the formal charge. I think we have got 4 electronic copies in your hands. And then we will 5 see what we can get through on the charge this 6 afternoon. 7 Court is in a 10-minute recess. We will 8 see y'all at 2:20. 9 THE COURT SECURITY OFFICER: All rise. 10 (Recess.) 11 THE COURT SECURITY OFFICER: All rise. 12 THE COURT: Thank you. 13 You can be seated. 14 Okay. We are back on the record, maybe 15 let's refresh our appearances because we are outside 16 the jury's presence at a formal charge conference. 17 So let's go for it, Mr. Gilliam. 18 MR. GILLIAM: For plaintiff Charlene 19 Carter, Matthew Gilliam, Matt Hill, and Bobby Pryor. 20 MR. McKEEBY: For Southwest Airlines, 21 Paulo McKeeby and Brian Morris. 22 MR. GREENFIELD: On behalf of TWU Local 23 556, Adam Greenfield and Edward Cloutman, III. 24 THE COURT: Okay. Thank y'all. 25 All right. So we are here at the formal</p>	<p style="text-align: right;">Page 1858</p> <p>1 charge conference, sent the jury home for the day 2 and then y'all have my latest draft of the jury 3 charge and the jury questions. 4 So what I want to do is, basically, we 5 will go through this a section at a time this time. 6 And I'm just going to ask if anyone has any problems 7 with any section. And then we will address those 8 before I move on to the next section. As soon as my 9 computer decides to pull up the behemoth charge, I 10 will be ready to go. 11 Okay. So I have got it up. So we've got 12 jury instructions, a standard opening on pages 1 and 13 2. 14 Does anyone have any issues with pages 1 15 and 2? 16 MR. GREENFIELD: I'm sorry. You have the 17 jury instructions first? 18 THE COURT: Uh-huh. 19 MR. GREENFIELD: I'm sorry, I don't know 20 if I -- 21 THE COURT: So pages 1 and 2, anyone -- 22 any issues with the standard instructions? 23 MR. GREENFIELD: I'm trying to pull it up. 24 My email is not -- 25 THE COURT: How about signal to me when</p>

<p style="text-align: right;">Page 1859</p> <p>1 you are ready?</p> <p>2 MR. GREENFIELD: The wheels are spinning.</p> <p>3 I would be happy if you want to turn it over to see</p> <p>4 what everyone else has to say to keep moving</p> <p>5 forward, your Honor. I'm just getting a spinning</p> <p>6 wheel. Thank you, though.</p> <p>7 THE COURT: I was earlier, so I feel your</p> <p>8 pain.</p> <p>9 MR. GREENFIELD: I think I have got</p> <p>10 them -- within moments, your Honor. Maybe.</p> <p>11 I'm ready, your Honor.</p> <p>12 THE COURT: All righty.</p> <p>13 Okay. So pages 1 and 2 are standard</p> <p>14 preliminary instructions.</p> <p>15 Any issues with regard to those?</p> <p>16 MR. GILLIAM: None from plaintiff.</p> <p>17 THE COURT: All right. Any Southwest</p> <p>18 issues on 1 and 2?</p> <p>19 MR. MORRIS: No, your Honor.</p> <p>20 MR. GREENFIELD: No, your Honor.</p> <p>21 THE COURT: All right.</p> <p>22 Preponderance of the evidence on page 3,</p> <p>23 any issues?</p> <p>24 MR. GILLIAM: None from plaintiff.</p> <p>25 MR. MORRIS: None from Southwest.</p>	<p style="text-align: right;">Page 1860</p> <p>1 MR. GREENFIELD: None, your Honor.</p> <p>2 THE COURT: Okay. So we are on to</p> <p>3 evidence, page 3; direct and circumstantial.</p> <p>4 MR. GILLIAM: No issues from plaintiff.</p> <p>5 MR. MORRIS: None from Southwest.</p> <p>6 MR. GREENFIELD: None, your Honor, from</p> <p>7 the Union.</p> <p>8 THE COURT: Now we are on to stipulations</p> <p>9 and the 15 from the pretrial order that I read at</p> <p>10 the start of trial and incorporated here.</p> <p>11 Any issues with the stipulation section?</p> <p>12 MR. GILLIAM: None from plaintiff.</p> <p>13 MR. MORRIS: None from Southwest.</p> <p>14 MR. GREENFIELD: None from the Union, your</p> <p>15 Honor.</p> <p>16 THE COURT: All right.</p> <p>17 So we are to the witnesses section on</p> <p>18 pages 5 and 6.</p> <p>19 MR. GILLIAM: No issues from plaintiff.</p> <p>20 MR. MORRIS: None from Southwest.</p> <p>21 MR. GREENFIELD: None from the Union, your</p> <p>22 Honor.</p> <p>23 THE COURT: All right.</p> <p>24 So then similar acts on 6 and 7?</p> <p>25 MR. GILLIAM: No issues from plaintiff.</p>
<p style="text-align: right;">Page 1861</p> <p>1 MR. MORRIS: Your Honor, Southwest just</p> <p>2 requests that the limiting instruction that is</p> <p>3 further down the charge be included here as well.</p> <p>4 THE COURT: I know the limiting</p> <p>5 instruction is in here. I'm fine putting it in one</p> <p>6 place. If you want me to put it in here, I can move</p> <p>7 it. Putting in it twice, I think, gives it more</p> <p>8 credence than anything else gets in the charge.</p> <p>9 MR. MORRIS: I think it is fine where it</p> <p>10 is.</p> <p>11 THE COURT: Okay. Any other issues with</p> <p>12 similar acts?</p> <p>13 MR. GILLIAM: No other issues from</p> <p>14 plaintiff.</p> <p>15 MR. GREENFIELD: None from me, your Honor.</p> <p>16 THE COURT: Okay. Impeachment by</p> <p>17 inconsistent statements?</p> <p>18 MR. GREENFIELD: None from the Union, your</p> <p>19 Honor.</p> <p>20 MR. GILLIAM: No issues from the</p> <p>21 plaintiff.</p> <p>22 MR. MORRIS: None for Southwest.</p> <p>23 THE COURT: Okay. Depo testimony on</p> <p>24 pages 7 and 8?</p> <p>25 MR. GREENFIELD: No issues from the Union,</p>	<p style="text-align: right;">Page 1862</p> <p>1 your Honor.</p> <p>2 MR. GILLIAM: No issues from the</p> <p>3 plaintiff.</p> <p>4 THE COURT: I will flag for y'all, I</p> <p>5 changed, like, two or three words in here. The</p> <p>6 pattern says, "Before trial a depo was taken," and</p> <p>7 Nevarez was not taken before trial. So I just said</p> <p>8 "some time before the testimony was presented," just</p> <p>9 to make sure we are technically correct.</p> <p>10 Are there any issues with that? That is</p> <p>11 the next-to-the-bottom line on page 7.</p> <p>12 I just want to give full disclosure on</p> <p>13 what I was tweaking this morning.</p> <p>14 MR. MORRIS: No issues from Southwest.</p> <p>15 MR. GREENFIELD: No, your Honor.</p> <p>16 And I would just make a request from the</p> <p>17 Court, if you could kindly point out if there has</p> <p>18 been any adjustments so I can at least compare if we</p> <p>19 get to a section.</p> <p>20 THE COURT: I have no idea. Because I'm</p> <p>21 one of three people who was changing it in the last</p> <p>22 24 hours.</p> <p>23 MR. GREENFIELD: Understood.</p> <p>24 THE COURT: So I will tell you if I have</p> <p>25 personal knowledge of things that I changed.</p>

<p style="text-align: right;">Page 1863</p> <p>1 MR. GREENFIELD: Thank you.</p> <p>2 THE COURT: Yes, if you want to make a red</p> <p>3 line and send it now, that is fine, to the version</p> <p>4 y'all had last.</p> <p>5 Okay. So now we are at limiting</p> <p>6 instructions. Any issue with limiting instructions?</p> <p>7 MR. GILLIAM: No issues from plaintiff.</p> <p>8 MR. MORRIS: None from Southwest.</p> <p>9 MR. GREENFIELD: None for me, your Honor.</p> <p>10 THE COURT: All right.</p> <p>11 Inference from filing suit. There is</p> <p>12 none. Any issue?</p> <p>13 MR. GILLIAM: No issues from plaintiff.</p> <p>14 MR. MORRIS: None from Southwest.</p> <p>15 MR. GREENFIELD: None from the Union, your</p> <p>16 Honor.</p> <p>17 THE COURT: Okay. Now, we are into</p> <p>18 parties claims. Let's talk about Section 8 first.</p> <p>19 So fair representation against Local 556.</p> <p>20 Any issues on this one on pages 9, 10, and</p> <p>21 touching on 11?</p> <p>22 MR. GILLIAM: Yes, your Honor. We still</p> <p>23 maintain our objection about the inclusion of</p> <p>24 language about how the DFR applies during grievance</p> <p>25 handling. Grievance handling is not a relevant part</p>	<p style="text-align: right;">Page 1864</p> <p>1 of Ms. Carter's claims in this case. And we feel</p> <p>2 that it is confusing to the jury, the claims.</p> <p>3 So we object to the --</p> <p>4 MR. GREENFIELD: If I may respond, your</p> <p>5 Honor.</p> <p>6 THE COURT: Yes. So let's -- can you zoom</p> <p>7 in on that sentence? Is it the last sentence of the</p> <p>8 first full paragraph that we are talking about?</p> <p>9 MR. GILLIAM: Yes. That is one occurrence</p> <p>10 of it. It occurs in two places. That is one place.</p> <p>11 The other is on page 10, and it is the last sentence</p> <p>12 of the second paragraph.</p> <p>13 THE COURT: Okay.</p> <p>14 Response?</p> <p>15 MR. GREENFIELD: Yes, your Honor.</p> <p>16 I understand that the attorneys are saying</p> <p>17 that it is not part of their case, but when</p> <p>18 Ms. Carter was on the stand, she waffled a couple</p> <p>19 times back and forth, but did say at one point that</p> <p>20 she did say the representation was a breach.</p> <p>21 THE COURT: In the Step 2?</p> <p>22 MR. GREENFIELD: Yes, ma'am -- yes, sir.</p> <p>23 THE COURT: Yes. I recalled that, too.</p> <p>24 So I know y'all have been consistent, but I thought</p> <p>25 there --</p>
<p style="text-align: right;">Page 1865</p> <p>1 MR. GILLIAM: We argued it, so I --</p> <p>2 THE COURT: -- agreed.</p> <p>3 But -- so I wasn't also asked to</p> <p>4 judiciously estop her and strike her.</p> <p>5 So because of that, I think I have got to</p> <p>6 have the language in for clarity of picture from</p> <p>7 what the jury heard, if that makes sense.</p> <p>8 That is at least my view sitting here</p> <p>9 after hearing that testimony. So my recollection</p> <p>10 was consistent with Mr. Greenfield's.</p> <p>11 MR. GILLIAM: Okay. And.</p> <p>12 A question for your Honor, for any</p> <p>13 instance where, I guess, we do have an objection to</p> <p>14 some of these instructions on claims, it is my</p> <p>15 understanding that we need to file, to get something</p> <p>16 on the record, maybe, you know, a version that, you</p> <p>17 know, we would not -- that we would not object to in</p> <p>18 order to preserve our objection.</p> <p>19 THE COURT: So yes, with an asterisk. I</p> <p>20 guess what I'm concerned about is not about language</p> <p>21 that you would like cut out. You can just tell me.</p> <p>22 And that is why I asked you to point out</p> <p>23 the specific sentences you are talking about. So</p> <p>24 right now you have preserved error that those two</p> <p>25 sentences, and the spots that you identified are in</p>	<p style="text-align: right;">Page 1866</p> <p>1 and shouldn't be, in your view.</p> <p>2 My greater concern was -- and this</p> <p>3 probably is evaporating, given the timing that we</p> <p>4 are having this charge conference at. If the jury</p> <p>5 were back out there, and you said, Hey, I have got a</p> <p>6 20-page instruction on my preferred way to handle my</p> <p>7 claims, and now we are worried about the jury's</p> <p>8 timing being back there, I would ask you to file</p> <p>9 that, reference it in this proceeding. And that way</p> <p>10 we don't have to have you read it all.</p> <p>11 So here I have no problem, if you read</p> <p>12 it -- now that the jury is not waiting on us, I</p> <p>13 don't have a problem with you reading what you think</p> <p>14 is substantially correct. But if it is an omission</p> <p>15 that we are talking about like right here, you can</p> <p>16 just say, Omit X, Starr, because it shouldn't be in</p> <p>17 there.</p> <p>18 And if there is something larger that you</p> <p>19 want in that I'm not putting in, we need to get it</p> <p>20 in, in some way. Either you read it into the record</p> <p>21 here or you file it and reference it by</p> <p>22 incorporation.</p> <p>23 Does that make sense?</p> <p>24 MR. GILLIAM: I think so.</p> <p>25 So you mentioned a notation saying "omit."</p>

<p style="text-align: right;">Page 1867</p> <p>1 Do we file something with some kind of</p> <p>2 notation like that?</p> <p>3 THE COURT: No. So as long as it is in</p> <p>4 the record, that is what matters, right? And so the</p> <p>5 normal way of handling this is all verbally on the</p> <p>6 record.</p> <p>7 If we have somebody say, I would like a</p> <p>8 different jury question that is 30 pages long, it is</p> <p>9 going to take 30 minutes to read that into the</p> <p>10 record. I was concerned about them waiting back</p> <p>11 there for 30 minutes. When you could just file it,</p> <p>12 refer to it in this proceeding that you are filing,</p> <p>13 and then it is preserved.</p> <p>14 So my preference would be, now that we are</p> <p>15 not waiting on them, whatever you have got that you</p> <p>16 want in that I'm keeping out, read it into the</p> <p>17 record.</p> <p>18 But if it really is like 30 or 40 minutes</p> <p>19 worth, or more than that, then we can think about</p> <p>20 whether or not we should file it.</p> <p>21 So it is content you are wanting in that</p> <p>22 is lengthy that would bore us all to tears that I'm</p> <p>23 letting you file in reference to it in this hearing.</p> <p>24 But you should still reference it in this hearing,</p> <p>25 right? I don't want you going and filing something</p>	<p style="text-align: right;">Page 1868</p> <p>1 at midnight saying, This was my preferred charge.</p> <p>2 That is not a proper way of handling it.</p> <p>3 MR. GILLIAM: Okay.</p> <p>4 We just had concerns about preserving the</p> <p>5 issue. And I think we were under the impression</p> <p>6 that we would have to file -- that we would have to</p> <p>7 put something in writing.</p> <p>8 THE COURT: You don't have to put</p> <p>9 something in writing to preserve it. You can put it</p> <p>10 in at this hearing to preserve it.</p> <p>11 Now, you need something at this hearing to</p> <p>12 preserve it, even if this hearing references</p> <p>13 something you are filing on the docket right now or</p> <p>14 an hour from now, that incorporates it by reference.</p> <p>15 Does that make sense? But you have got to</p> <p>16 bring it up at this hearing.</p> <p>17 If you bring it up on the docket tonight</p> <p>18 and there is no reference in this hearing to it,</p> <p>19 then it is not preserved at the formal charge</p> <p>20 conference.</p> <p>21 All right. So if you have a question on a</p> <p>22 particular thing you are wondering about, let me</p> <p>23 know, because I don't just have to give you</p> <p>24 generalized, we can talk through it specifically.</p> <p>25 But on the ones you just told me, the two</p>
<p style="text-align: right;">Page 1869</p> <p>1 sentences that shouldn't be there, in your view, I'm</p> <p>2 overruling your objection. Your objection is</p> <p>3 perfectly clear on the record on what documents they</p> <p>4 are.</p> <p>5 Now, I will say, one thing I should do --</p> <p>6 because I only emailed this to y'all and did not</p> <p>7 send it, I'm going to read these two sentences into</p> <p>8 the record because I think a reference to an email</p> <p>9 is not enough. It has got to be a reference to a</p> <p>10 file document or something read into the record,</p> <p>11 right? So I caught myself there.</p> <p>12 So I think your two sentences that you are</p> <p>13 objecting to, Mr. Gilliam, are, this is especially</p> <p>14 true when a union is handling a grievance based upon</p> <p>15 a termination, the industrial equivalent of capital</p> <p>16 punishment, is that one of the sentences you are</p> <p>17 objecting to?</p> <p>18 MR. GILLIAM: Yes, your Honor.</p> <p>19 THE COURT: Okay. I will overrule that</p> <p>20 one.</p> <p>21 And then the other sentence you are</p> <p>22 objecting to is, plaintiff Carter can also prove a</p> <p>23 breach of duty by the Union by showing that the</p> <p>24 Union was arbitrarily ignoring a meritorious</p> <p>25 grievance or processing it in a perfunctory fashion.</p>	<p style="text-align: right;">Page 1870</p> <p>1 That's the other one you are objecting to?</p> <p>2 MR. GILLIAM: That's the other one, your</p> <p>3 Honor.</p> <p>4 THE COURT: Okay. I will overrule that</p> <p>5 objection as well, based on the evidence that I</p> <p>6 believe we heard.</p> <p>7 Okay. So other questions on this section</p> <p>8 A, fair representation against the Union?</p> <p>9 MR. GREENFIELD: Yes, your Honor.</p> <p>10 If we go down to the paragraph that</p> <p>11 starts, "A union is liable for all acts."</p> <p>12 THE COURT: I'm there.</p> <p>13 MR. GREENFIELD: I think the charge sets</p> <p>14 out kind of what a union is liable for, and how a</p> <p>15 union violates the DFR.</p> <p>16 We would just reiterate the language we</p> <p>17 asked for in our formal -- or in our informal charge</p> <p>18 conference. At the end of footnote 4, we believe it</p> <p>19 would be important to include, "However, a union</p> <p>20 official does not lose their federally-protected</p> <p>21 rights as an employee by becoming an official with</p> <p>22 the Union. As such, Defendant Southwest Airlines</p> <p>23 owes the same duty to the Union and as officials as</p> <p>24 any other Southwest employees."</p> <p>25 THE COURT: Understood.</p>

<p style="text-align: right;">Page 1871</p> <p>1 Thank you for reading it in. I will</p> <p>2 reject that. But that was perfect in reading it in.</p> <p>3 So you have preserved your argument.</p> <p>4 MR. GREENFIELD: The next issue I have,</p> <p>5 your Honor.</p> <p>6 THE COURT: Yes, sir.</p> <p>7 MR. GREENFIELD: If we go down to, "The</p> <p>8 law presumes."</p> <p>9 THE COURT: I'm there.</p> <p>10 MR. GREENFIELD: "Breaches its duty when</p> <p>11 it causes the discharge of an employee."</p> <p>12 THE COURT: Yes, sir.</p> <p>13 MR. GREENFIELD: I believe that is a</p> <p>14 misstatement of the law. The law, if applied to</p> <p>15 conduct of individuals rather than actions of the</p> <p>16 executive board, creating such a presumption</p> <p>17 elevates the federal rights of some employees above</p> <p>18 those of others, and I think that is improper.</p> <p>19 THE COURT: All right. Would you omit or</p> <p>20 reform that statement?</p> <p>21 MR. GREENFIELD: I would take that out.</p> <p>22 THE COURT: Okay.</p> <p>23 MR. GREENFIELD: Omit it.</p> <p>24 THE COURT: Understood.</p> <p>25 I will overrule that.</p>	<p style="text-align: right;">Page 1872</p> <p>1 MR. GILLIAM: And, your Honor, I also have</p> <p>2 an objection with that statement as well.</p> <p>3 THE COURT: Okay. Go for it.</p> <p>4 MR. GILLIAM: It currently says, "The law</p> <p>5 presumes a union breaches its duty when it causes</p> <p>6 the discharge of an employee." The second sentence</p> <p>7 says, "If a union caused the discharge of an</p> <p>8 employee."</p> <p>9 We believe that it should say the law</p> <p>10 presumes union breaches its duty when it causes or</p> <p>11 attempts to cause the discharge of an employee.</p> <p>12 THE COURT: Causes or attempts to cause.</p> <p>13 Do you have a citation for authority for attempts to</p> <p>14 cause?</p> <p>15 MR. GILLIAM: I believe the In Re Graphics</p> <p>16 case, or Acklin, one of the two states it. If not,</p> <p>17 maybe the Caravan Knight case. I know we have cited</p> <p>18 it before. I don't have the citation off the top of</p> <p>19 my head. We've often cited those together.</p> <p>20 THE COURT: Understood.</p> <p>21 So what I will do is, I will overrule it</p> <p>22 for now. I will look into it, because I reserve the</p> <p>23 right before charging the jury to change my mind,</p> <p>24 but I will look at your cases. But I'm going to</p> <p>25 overrule it at this point.</p>
<p style="text-align: right;">Page 1873</p> <p>1 MR. GILLIAM: Well, one of the cases does</p> <p>2 say "cause," but I believe one of the others says</p> <p>3 "attempts to cause."</p> <p>4 THE COURT: Okay. I'm overruling it at</p> <p>5 this point and I reserve the right change my mind.</p> <p>6 Other issues with this section?</p> <p>7 MR. GREENFIELD: The Union has no</p> <p>8 additional objections to section A, your Honor.</p> <p>9 THE COURT: All right.</p> <p>10 MR. GILLIAM: No others to section A from</p> <p>11 plaintiff.</p> <p>12 THE COURT: Okay. B is RLA retaliation</p> <p>13 claim against Southwest and 556.</p> <p>14 So who wants to raise an objection to this</p> <p>15 section?</p> <p>16 MR. MORRIS: Your Honor, Southwest would</p> <p>17 request that the second sentence, The act forbids</p> <p>18 any limitation, et cetera, et cetera. That</p> <p>19 statement is from the section on the purpose of the</p> <p>20 RLA. It doesn't impose any free-standing legal</p> <p>21 obligations on the parties. And we think it is</p> <p>22 inappropriate to instruct the jury as to the purpose</p> <p>23 of a statute. That is for the Court's use perhaps,</p> <p>24 but we think it is improper for the jury.</p> <p>25 THE COURT: Any thoughts from any other</p>	<p style="text-align: right;">Page 1874</p> <p>1 side? Any objection to me taking it out?</p> <p>2 MR. GILLIAM: We think it is proper to</p> <p>3 include the language of the statute there.</p> <p>4 MR. MORRIS: Your Honor, if I could one</p> <p>5 thing. It says, "The act forbids." The section</p> <p>6 actually says, "the act is intended to forbid."</p> <p>7 This is saying it actually forbids something. I</p> <p>8 just think that is not accurate, as well as just</p> <p>9 inappropriate.</p> <p>10 THE COURT: Understood.</p> <p>11 So what I will do on this is, I'm going to</p> <p>12 overrule this one for now. I'm going to take a look</p> <p>13 at it as well.</p> <p>14 And what I will do is, if I make any</p> <p>15 changes later on today, I'm going to send y'all a</p> <p>16 red line from what I tell you I'm doing at the</p> <p>17 formal charge conference, if that makes sense.</p> <p>18 Okay. Other questions?</p> <p>19 MR. GILLIAM: Yes, your Honor.</p> <p>20 For plaintiffs, on -- I guess starting</p> <p>21 with page 13. Let's see, the first full paragraph</p> <p>22 that starts with, To prove.</p> <p>23 THE COURT: I'm there.</p> <p>24 MR. GILLIAM: And the third element says</p> <p>25 that plaintiff Carter's protective activity played a</p>

<p style="text-align: right;">Page 1875</p> <p>1 substantial or motivating factor.</p> <p>2 I think played should be --</p> <p>3 MR. GREENFIELD: And I'm sorry, Matthew.</p> <p>4 I'm not there. I'm trying to track.</p> <p>5 MR. GILLIAM: Oh, sorry.</p> <p>6 MR. GREENFIELD: On page 13, you said?</p> <p>7 MR. GILLIAM: Page 13, the first full</p> <p>8 paragraph that starts with --</p> <p>9 MR. GREENFIELD: To prove.</p> <p>10 MR. GILLIAM: -- to prove.</p> <p>11 MR. GREENFIELD: Thank you.</p> <p>12 MR. GILLIAM: And then the third element.</p> <p>13 MR. GREENFIELD: My apologies. Thank you.</p> <p>14 MR. GILLIAM: No problem.</p> <p>15 It says that plaintiff Carter -- plaintiff</p> <p>16 Carter's protected activity played a substantial and</p> <p>17 motivating factor.</p> <p>18 We would just strike "played" and include</p> <p>19 "was." The concern is that "played" may confuse</p> <p>20 what the motivating factor analysis actually is.</p> <p>21 THE COURT: Okay. "Played" to "was."</p> <p>22 Any issues with changing played to was?</p> <p>23 MR. MORRIS: Your Honor, I think that</p> <p>24 is -- that's fine.</p> <p>25 MR. GREENFIELD: Yes, your Honor.</p>	<p style="text-align: right;">Page 1876</p> <p>1 THE COURT: It saves several letters,</p> <p>2 which, in the grand scheme of things, we could make</p> <p>3 that change throughout.</p> <p>4 MR. GILLIAM: I hate to seem like I'm</p> <p>5 quibbling, but I did have a concern about it.</p> <p>6 THE COURT: Understood.</p> <p>7 No, I -- okay. So I have made that change</p> <p>8 from "played" to "was."</p> <p>9 I will note, now that I'm making changes,</p> <p>10 my pagination is changing a little bit, so it may</p> <p>11 take me a little bit to catch up to where y'all are</p> <p>12 at.</p> <p>13 Okay. So I made that change from changing</p> <p>14 "played" to "was."</p> <p>15 Other issues with this section?</p> <p>16 MR. GILLIAM: I still have a couple.</p> <p>17 The other is we think there should be a</p> <p>18 paragraph included to define what "substantial and</p> <p>19 motivating factor" means.</p> <p>20 We would -- we would amend it to read,</p> <p>21 "substantial and motivating factor means any factor</p> <p>22 that motivated or in any way contributed to</p> <p>23 Southwest's decision to fire Carter or Local 556's</p> <p>24 decision to report Carter."</p> <p>25 And further include language that says</p>
<p style="text-align: right;">Page 1877</p> <p>1 "even if other factors also motivated the decision."</p> <p>2 THE COURT: Okay. So thoughts on that</p> <p>3 language, on defining "substantial and motivating</p> <p>4 factor"?</p> <p>5 MR. MORRIS: We object to that inclusion.</p> <p>6 We think it is clear as it is; long enough as it is.</p> <p>7 THE COURT: Understood.</p> <p>8 Any Union position?</p> <p>9 MR. GREENFIELD: Same here.</p> <p>10 THE COURT: Okay. So I'm going to reject</p> <p>11 that inclusion, but you have preserved it.</p> <p>12 MR. MORRIS: Your Honor, I have another</p> <p>13 thought. I don't know if anybody else wants to jump</p> <p>14 in.</p> <p>15 THE COURT: You may as well, Mr. Morris.</p> <p>16 MR. MORRIS: In the first sentence after</p> <p>17 the Court quotes section 152.4. It says, "Plaintiff</p> <p>18 Carter claims Southwest retaliated against her by</p> <p>19 firing her for engaging in union-opposition-and-</p> <p>20 organizational activity."</p> <p>21 I think it is best not to characterize the</p> <p>22 claim there, at the risk of being either inaccurate</p> <p>23 or under or over inclusive, and just say "Carter</p> <p>24 claims Southwest retaliated against her by firing</p> <p>25 her for engaging in activity protected by the</p>	<p style="text-align: right;">Page 1878</p> <p>1 RLA" -- or protected by section -- sorry -- I'm just</p> <p>2 trying to word it properly.</p> <p>3 So if we just took out "in opposition,</p> <p>4 union-opposition-and-organizational activity." I</p> <p>5 think that would address it.</p> <p>6 THE COURT: So you suggest taking out the</p> <p>7 words connected by the hyphens,</p> <p>8 union-opposition-and-organizational?</p> <p>9 MR. MORRIS: Correct.</p> <p>10 THE COURT: I don't have an issue with</p> <p>11 taking out "union opposition" and organizational</p> <p>12 modifier to activity.</p> <p>13 MR. GILLIAM: We do, your Honor. I think</p> <p>14 that it makes it clear what -- what exact activity</p> <p>15 we are talking about for the purpose of the RLA</p> <p>16 claims so that, you know, the jurors don't have to</p> <p>17 be lawyers and understand what it is precisely that</p> <p>18 152, Third and Fourth protect and what is at issue</p> <p>19 in this case.</p> <p>20 THE COURT: Understood.</p> <p>21 Any Union position on that phrase coming</p> <p>22 out or staying in?</p> <p>23 MR. GREENFIELD: I'm not sure, your Honor.</p> <p>24 I'm trying to keep up. I'm on a different section.</p> <p>25 THE COURT: I hear you.</p>

<p style="text-align: right;">Page 1879</p> <p>1 MR. GREENFIELD: Specifically, what are we</p> <p>2 talking about? I apologize.</p> <p>3 THE COURT: So under the block quote that</p> <p>4 I have now on my page 12 -- which is different than</p> <p>5 y'all's page 12 --</p> <p>6 MR. GREENFIELD: Okay. All right.</p> <p>7 THE COURT: -- that quotes section 152.4,</p> <p>8 there is a first full sentence that says, "Plaintiff</p> <p>9 Carter claims that Defendant Southwest."</p> <p>10 Tell me when you are at that sentence.</p> <p>11 MR. GREENFIELD: Yes, I'm there.</p> <p>12 THE COURT: Okay. There is a long</p> <p>13 hyphenated phrase, union-opposition-and-</p> <p>14 organizational, that Southwest would like out that</p> <p>15 Carter wants to keep in.</p> <p>16 MR. GREENFIELD: And I'm sorry, I didn't</p> <p>17 hear what Southwest -- did Southwest have a</p> <p>18 proposition that they wanted?</p> <p>19 THE COURT: They prefer to either cut it</p> <p>20 or cut it and change the wording of, "by section</p> <p>21 152, Third and Fourth," to, "by the RLA."</p> <p>22 MR. GREENFIELD: I'm fine either way, your</p> <p>23 Honor.</p> <p>24 THE COURT: Okay. I'm going to keep it in</p> <p>25 for now. I know it adds length, but it is clarity,</p>	<p style="text-align: right;">Page 1880</p> <p>1 so I think it serves some purpose. So I will</p> <p>2 overrule the objection and keep it in.</p> <p>3 What is the next objection to this</p> <p>4 section?</p> <p>5 MR. GILLIAM: For plaintiff, your Honor,</p> <p>6 paragraph 15 -- I'm sorry -- page 15. I think it is</p> <p>7 still page 15. I'm using the old version for</p> <p>8 guidance on pages.</p> <p>9 THE COURT: Okay. But now you are in a</p> <p>10 new section, though, right?</p> <p>11 MR. GILLIAM: Am I?</p> <p>12 MR. GREENFIELD: Fifteen would take us</p> <p>13 into C --</p> <p>14 THE COURT: It would take us somewhere</p> <p>15 into the C territory.</p> <p>16 MR. GILLIAM: Okay. I'm sorry. We are in</p> <p>17 B.</p> <p>18 MR. GREENFIELD: So, Matthew, what</p> <p>19 happened is and why I lost you earlier is, I believe</p> <p>20 the Court cut the language about it being a -- the</p> <p>21 matter of law question, and so that kind of skewed</p> <p>22 our pages from your pages.</p> <p>23 MR. GILLIAM: Oh.</p> <p>24 THE COURT: Yes, it did.</p> <p>25 MR. GILLIAM: Okay. Sorry about that.</p>
<p style="text-align: right;">Page 1881</p> <p>1 With that mind, so it is the last</p> <p>2 paragraph of paragraph B -- paragraph B, right</p> <p>3 before C.</p> <p>4 THE COURT: Okay. So the last full</p> <p>5 paragraph of B, if you decide that Defendant</p> <p>6 Southwest, is that correct?</p> <p>7 MR. GILLIAM: Yes. And we believe that</p> <p>8 whole paragraph should be stricken for the -- for</p> <p>9 all of the reasons we have previously argued.</p> <p>10 There is no -- we have argued there is no</p> <p>11 legitimate, non-discriminatory reason. There is --</p> <p>12 you know, Southwest and Local 556 reported</p> <p>13 Ms. Carter's messages and posts under the social</p> <p>14 media policies, and that either was a discriminatory</p> <p>15 reason or it was not a discriminatory reason. And</p> <p>16 the affirmative defense is meant to provide for a</p> <p>17 non-discriminatory reason.</p> <p>18 So it is -- the social media policies, as</p> <p>19 a defense, shouldn't get two bites at the apple.</p> <p>20 And it nullifies the RLA's protections to include</p> <p>21 this paragraph in here. It nullifies the whole</p> <p>22 protection for the activities that Ms. Carter</p> <p>23 engaged it.</p> <p>24 THE COURT: Understood.</p> <p>25 So I will project your request for the</p>	<p style="text-align: right;">Page 1882</p> <p>1 same reasons I overruled the directed verdict motion</p> <p>2 which is -- shhhhh.</p> <p>3 I'm joking. But I never say why, right?</p> <p>4 So I'm not going to say why now.</p> <p>5 I don't want shape y'all's closing</p> <p>6 arguments, right? I don't want to tell you what I'm</p> <p>7 thinking of that is important to me, which may be</p> <p>8 totally different than what is important to them.</p> <p>9 So, you know, I have my own reasons, but I</p> <p>10 have found that in the past, they usually don't</p> <p>11 matter if I tell you, because they pull you off of</p> <p>12 the jury's trail and on to my trail, which is just</p> <p>13 irrelevant.</p> <p>14 So I understand your request to remove</p> <p>15 that paragraph, but I will overrule it.</p> <p>16 Other objections for section B?</p> <p>17 MR. GREENFIELD: Yes, your Honor, from the</p> <p>18 Union. If we look at section 13 -- or page 13, the</p> <p>19 second paragraph from the bottom that says, "All</p> <p>20 union-oppositional-and-organizational activity."</p> <p>21 THE COURT: I'm there.</p> <p>22 MR. GREENFIELD: Okay. We would seek, as</p> <p>23 we requested in the informal conference, different</p> <p>24 case law language. We have provided the case of</p> <p>25 Held v. American Airlines, Lesser Construction, LLC</p>

<p style="text-align: right;">Page 1883</p> <p>1 and Daimler Chrysler Corp.</p> <p>2 We believe a more proper instruction would</p> <p>3 be under section 152, Third and Fourth, but can lose</p> <p>4 protection, if the communication is vulgar,</p> <p>5 offensive, abusive, or harassing under Held.</p> <p>6 Special circumstances can also cause the</p> <p>7 speech to lose protection under Lesser Construction.</p> <p>8 Such circumstances include situations in which the</p> <p>9 otherwise-protected activity is vulgar or obscene</p> <p>10 and may exacerbate employee tensions. Also from</p> <p>11 Lesser Construction.</p> <p>12 And then continuing on, if you find</p> <p>13 plaintiff Carter's messages to Ms. Stone to be</p> <p>14 indefensible or abusive, the protection is forfeited</p> <p>15 under Daimler Chrysler in the NLRB case.</p> <p>16 THE COURT: Understood.</p> <p>17 So I will say I think this is sort of the</p> <p>18 core issue with the charge, right? Getting down to</p> <p>19 what is -- what is the categories of protected</p> <p>20 conduct under the RLA.</p> <p>21 And I'm not going to speak too much on</p> <p>22 this because then I'm getting away from my general</p> <p>23 principle of not trying to throw y'all off of the</p> <p>24 jury's trail and tell you what I think is important.</p> <p>25 But based on this, I can't find a Supreme</p>	<p style="text-align: right;">Page 1884</p> <p>1 Court case or a Fifth Circuit case using that</p> <p>2 language in the Railway Labor Act. Absolutely any</p> <p>3 National Labor Relations Act, what I ingrafted in.</p> <p>4 I know under Konop, they had a question in a</p> <p>5 footnote where they said they might, looking at a</p> <p>6 Fifth Circuit National Labor Relations Act case.</p> <p>7 I don't see a basis to ingraft it from a</p> <p>8 National Labor Relations Act over to a Railway Labor</p> <p>9 Act, unless it is necessary.</p> <p>10 And from what I can tell, the reason</p> <p>11 Congress used different language is, the NLRA was</p> <p>12 really talking about context where you might have a</p> <p>13 union, and the RLA was talking about context where</p> <p>14 you will have a union.</p> <p>15 So I think it is basically making it as if</p> <p>16 it is the Government, right? The Government saying</p> <p>17 you will have a union in these transportation</p> <p>18 contexts. And as a result of that, it is almost</p> <p>19 like you are speaking to your Government.</p> <p>20 So what protected speech do you have?</p> <p>21 Well, you can't say knowingly false things about</p> <p>22 Government officials and you can't threaten your</p> <p>23 Government officials.</p> <p>24 But that separate category we find in the</p> <p>25 National Labor Relations Act where you might have a</p>
<p style="text-align: right;">Page 1885</p> <p>1 union, that level of additional protection is not</p> <p>2 there against where you will have a union just like</p> <p>3 it is not there where you will have your Government.</p> <p>4 So that is my view from the best I can</p> <p>5 extrapolate as to why the two laws are worded</p> <p>6 differently and why I don't have a Supreme Court</p> <p>7 case or a Fifth Circuit case telling me I need this</p> <p>8 third category.</p> <p>9 So that is a long way of saying I will</p> <p>10 reject that request, but I appreciate you reading</p> <p>11 the language into the record for us.</p> <p>12 MR. GREENFIELD: Yes, your Honor.</p> <p>13 Thank you.</p> <p>14 MR. MORRIS: Your Honor, we have the</p> <p>15 same -- although I was going to identify certain</p> <p>16 other categories of speech that lose protection.</p> <p>17 THE COURT: You should. So let's have you</p> <p>18 read your preferred language into the record,</p> <p>19 Mr. Morris.</p> <p>20 MR. MORRIS: Sure. Just give me one</p> <p>21 second. I'm just trying to get it right here.</p> <p>22 THE COURT: Yes.</p> <p>23 MR. MORRIS: So I guess it would be,</p> <p>24 "unless it is flagrant, violent, extreme, egregious,</p> <p>25 inappropriate, offensive, obscene, harassing,</p>	<p style="text-align: right;">Page 1886</p> <p>1 intimidating, or hostile."</p> <p>2 THE COURT: Understood.</p> <p>3 So I'll overrule that one for the same</p> <p>4 reasons I overruled the Union's request for similar</p> <p>5 language in section B.</p> <p>6 Okay. Other issues with section B?</p> <p>7 MR. GREENFIELD: Yes. I think I have one</p> <p>8 more, your Honor. I'm just trying to be clear on</p> <p>9 where it is.</p> <p>10 Yes. If we go down to the -- if you --</p> <p>11 the very last paragraph in section B, If you decide</p> <p>12 that Defendant Southwest and/or Defendant Local 556.</p> <p>13 THE COURT: Yes.</p> <p>14 MR. GREENFIELD: If you scroll down a few</p> <p>15 sentences, it gets to the section that goes section</p> <p>16 152, Third and/or Fourth.</p> <p>17 THE COURT: Yes.</p> <p>18 MR. GREENFIELD: So it says, "The</p> <p>19 Defendants assert that Plaintiff Carter would have</p> <p>20 been discharged even if she had not engaged in</p> <p>21 activity protected by section 152, Third and/or</p> <p>22 Fourth."</p> <p>23 We would seek additional language that</p> <p>24 says, at the end of Fourth, "and/or that even if her</p> <p>25 messages to Ms. Stone contained protected</p>

<p style="text-align: right;">Page 1887</p> <p>1 expression, they also constituted harassment that 2 violated Southwest Airlines' employee conduct 3 policies and implicated Stone's federally-protected 4 rights." 5 THE COURT: Understood. 6 I will reject that request. 7 Okay. Other issues with section B? 8 It sounds like we should move to C-1. 9 So C-1 is Carter's discharge claim against 10 Southwest and 556. 11 So on my version, it is starting on 12 page 14, and runs to the top of 16. 13 Who has an issue with section C-1? 14 MR. GREENFIELD: The Union, your Honor. 15 And correct me if I'm wrong on this -- and I 16 apologize, I had some help on this briefing. 17 But we object to it on the basis that we 18 would propose the adoption of the pattern jury 19 charge for claims of religious discrimination under 20 Title VII as presented by the Fifth Circuit. 21 THE COURT: Understood. 22 And anyone else have thoughts on sticking 23 to the patterns? 24 So my recollection was the patterns 25 preferred some tailoring to the case, so I think</p>	<p style="text-align: right;">Page 1888</p> <p>1 that is what we tried to accomplish in as neutral of 2 a way as possible. 3 MR. GILLIAM: Yes, your Honor. Just, I 4 think that in this case, the -- these instructions 5 more closely follow Abercrombie and Fitch, which I 6 think benefits this case. 7 THE COURT: All right. And I know I 8 haven't gone all of the way with you on Abercrombie 9 and what your view is, Abercrombie to this case, but 10 there is some part of it I have come along with you 11 on. 12 Okay. So I have a request in for sticking 13 solely to the patterns. I'm going to overrule that 14 request. 15 What other issues are there with C-1? 16 MR. GILLIAM: Let's see. I'm probably a 17 little messed up on my pages here. 18 There is a paragraph with the elements, I 19 guess for both Southwest and Local 556. And the 20 elements basically say that either Southwest -- 21 Southwest's discharge of Plaintiff Charter was 22 motivated by her sincerely-held religious 23 observance, beliefs, or practices. 24 And then the corresponding one for Local 25 556 says that Local 556's decision to report Carter</p>
<p style="text-align: right;">Page 1889</p> <p>1 to Southwest was motivated by Carter's 2 sincerely-held religious observance, beliefs, or 3 practices. 4 Our objection there would be that it 5 should more clearly state that Ms. Carter's 6 sincerely-held religious observance, beliefs or 7 practices were a motivating factor. 8 Concern with the way it is currently 9 phrased is that it would maybe lead the jury to 10 believe that the standard is a lot higher than it 11 is. 12 In fact -- 13 THE COURT: It looks more like but-for 14 language based on how we frame it? 15 MR. GILLIAM: Yes. And I think -- I do -- 16 I would like to state for the record that Ms. Carter 17 could also prove because of in this instance, 18 through a but-for cause analysis, the motivating 19 factor analysis is probably more appropriate. 20 I think she has either option, she could 21 prove her case through either the motivating factor 22 analysis or a but-for cause analysis. 23 And, again, to more clearly represent that 24 element, or more accurately represent the case law, 25 it should be worded to say that -- just so it is</p>	<p style="text-align: right;">Page 1890</p> <p>1 clear for the record -- that Defendant Southwest's 2 discharge of Plaintiff Carter -- I'm sorry -- that 3 Plaintiff Carter's sincerely-held religious 4 observances, beliefs, or practices was a motivating 5 factor for Defendant Southwest's decision to 6 discharge Carter. 7 And then the corresponding one for the 8 Union should say that Carter's sincerely-held 9 religious observance, beliefs, or practices was a 10 motivating factor to Local 556's decision to report 11 Carter. 12 THE REPORTER: Could you say that again? 13 It was garbled. 14 MR. GILLIAM: Sure. 15 That Local 556's decision to -- I'm 16 sorry -- that Carter's sincerely-held religious 17 observances, beliefs, or practices was a motivating 18 factor for Local 556's decision to report Carter. 19 I'm starting to lose my voice. I 20 apologize. 21 THE COURT: I think we all are at this 22 point. 23 MR. MORRIS: Your Honor, I would just note 24 for Southwest, that the "motivated by" language is 25 from the pattern instruction, and we don't see any</p>

<p style="text-align: right;">Page 1891</p> <p>1 reason to deviate from that. And relatedly, we 2 think the but-for instruction is the appropriate 3 one. 4 THE COURT: Now, they think they get both 5 motivating factor and but-for, and you think they 6 just get but-for, is that correct? 7 MR. MORRIS: Uh-huh, yes. 8 MR. GILLIAM: That's correct. 9 THE COURT: Okay. Union position on these 10 two arguments? 11 MR. GREENFIELD: No, your Honor. I think 12 the language should read as is. 13 THE COURT: Okay. So I'm going to stick 14 with it as is. 15 So I get your argument that I think 16 patterns might be able to be clearer, but until they 17 clear them up, I think I'm going to stick with the 18 safe harbor in the patterns. 19 I get your point to Abercrombie and Wright 20 Line, that maybe you can get both, but the patters 21 still are sticking me to one or the other. I 22 haven't seen sufficient clarity from Abercrombie 23 where I think I should really send both against the 24 patterns, but, yes, that may be true. 25 MR. GILLIAM: Bostock v. Clayton County,</p>	<p style="text-align: right;">Page 1892</p> <p>1 Georgia addresses it as well. 2 THE COURT: Right. I get that. But I'm 3 not there yet. So my inclination now is to send 4 motivating factor, but not both and not but-for, if 5 that makes sense. 6 So I will note your request, but I am 7 rejecting it. 8 THE COURT: Okay. What else do we have to 9 address in C-1? 10 MR. GILLIAM: The very last paragraph. It 11 starts, "Plaintiff Carter does not have to prove 12 that unlawful discrimination was the only reason" -- 13 THE COURT: Uh-huh. 14 MR. GILLIAM: -- "the Defendant Local 556 15 reported her." 16 And I guess there is a corresponding 17 paragraph for Southwest that this would apply to as 18 well. 19 The concern there is that it sort of 20 equates unlawful discrimination, what you are 21 proving, by showing that Ms. Carter's 22 sincerely-healed religious beliefs was a motivating 23 factor is instead now -- you are sort of 24 substituting what you have to prove for the -- what 25 is a motivating factor.</p>
<p style="text-align: right;">Page 1893</p> <p>1 So phrased the way it currently is, the 2 concern is that the -- it heightens the burden under 3 Title VII's motivating factor test. Because it 4 suggests that unlawful discrimination must be the 5 motivating factor. 6 THE COURT: Okay. What is your suggested 7 alternative? 8 MR. GILLIAM: That -- give me a second. 9 I'm sorry. I lost my place here. 10 Plaintiff Carter does not have to prove 11 that -- let's see. 12 "Plaintiff Carter does not have to prove 13 that her sincerely-held religious beliefs, 14 observances, and practices was the only reason that 15 Defendant Local 556 reported her or that Defendant 16 Southwest fired her," only that it was a reason. 17 And maybe another paragraph that says 18 "Under Title VII's motivating factor test, Carter 19 need only prove that some aspect of her religious 20 observance, beliefs, or practices was a factor in 21 the decision." 22 THE COURT: Understood. 23 I will overrule that request. 24 Other issues with C-1? 25 MR. GREENFIELD: None, your Honor.</p>	<p style="text-align: right;">Page 1894</p> <p>1 MR. MORRIS: No further from Southwest. 2 THE COURT: Anything else from Carter on 3 C-1? 4 MR. GILLIAM: I'm trying see if this is 5 the one where -- oh, yes. One other thing in the 6 paragraph relating to Local 556, element 2 of what 7 Ms. Carter has to prove, that Local 556 caused or 8 attempted to cause Carter's discharge by Southwest. 9 THE COURT: Uh-huh. 10 MR. GILLIAM: I think in accordance with 11 the language of the statutory text, it should be 12 that Local 556 caused or attempted to cause 13 Southwest to discriminate against Carter's religious 14 beliefs or practices. 15 MR. GREENFIELD: And I'm sorry, which 16 section are we at? Have we moved to 2? I 17 apologize. 18 MR. GILLIAM: Yes, element 2 of 19 Ms. Carter -- 20 MR. GREENFIELD: Section -- I'm sorry, 21 section 2? 22 THE COURT: We are still on C-1. 23 MR. GREENFIELD: Okay. Thank you. 24 MR. GILLIAM: Still on C-1. 25 And the reason being is that it is --</p>

<p style="text-align: right;">Page 1895</p> <p>1 certainly in this case, you know, we allege that 2 Ms. Stone and Local 556 attempted to cause 3 Ms. Carter's discharge, but if -- if for whatever 4 reason the jury determined that they weren't trying 5 to cause her actual discharge but were trying to 6 cause just Southwest to treat her differently, to 7 discipline her, that that is still a violation of 8 the law, the statutory text. 9 THE COURT: Okay. 10 So the current version in C-1 for the 11 paragraph that starts with, "To prove unlawful 12 discrimination by Defendant Local 556," we have a 13 second element that currently reads, "That Local 556 14 caused or attempted to cause discrimination against 15 Plaintiff Carter by Defendant Southwest." 16 And you want to put in -- can you say that 17 language one more time? 18 MR. GILLIAM: Oh, wait. Does it use 19 "discrimination" instead of "discharge"? 20 THE COURT: In the current version, yes. 21 Unless I'm on a different -- 22 MR. GILLIAM: I apologize. It does. 23 THE COURT: So is that language now 24 sufficient in the newest version of the charge for 25 you?</p>	<p style="text-align: right;">Page 1896</p> <p>1 MR. GILLIAM: Yes, your Honor. I'm sorry, 2 I missed that one. 3 THE COURT: I know it is not your exact 4 language, but it is different than the version -- 5 MR. GILLIAM: Yes, I apologize. I missed 6 that one, your Honor. 7 THE COURT: Okay. All right. 8 Other issues with C-1? 9 MR. GILLIAM: No other issues from 10 plaintiff. I'm sorry. 11 THE COURT: That is fine. Okay. 12 So we are at C-2 now. For me, that starts 13 at the top of 16. 14 What issues are there with C-2? 15 MR. GREENFIELD: I can start, your Honor, 16 if you would like. 17 THE COURT: You may. 18 MR. GREENFIELD: Just at the end, we would 19 ask for some additional language. The first 20 paragraph, "The Union Local 556 denies Carter's 21 claim." 22 What we would like it to say is the Union 23 Local 556 denies that Audrey Stone was acting in her 24 official capacity when she reported plaintiff Carter 25 to Southwest Airlines or that her reporting was</p>
<p style="text-align: right;">Page 1897</p> <p>1 motivated by plaintiff Carter's religion. 2 Again, this ties back to our argument 3 that -- the official capacity issue, I believe is 4 dispositive of every issue, and I think it should be 5 included in every part as we go down. 6 THE COURT: All right. Any thoughts by 7 Carter on that proposed language, to clarify what 8 the Union is arguing in response to this claim? 9 MR. GILLIAM: So it is just what the Union 10 claims? 11 THE COURT: Correct. 12 MR. GILLIAM: Yes. No objection for them 13 to state it. 14 THE COURT: So I think this is the most 15 area where you have freedom to control the words 16 that are in the charge. So give me just one minute, 17 I'm going to write the words you said in from the 18 transcript, put them in and read them back to you, 19 so hold on. 20 Okay. Can you say your proposed language 21 one more time? 22 MR. GREENFIELD: Yes, your Honor. 23 THE COURT: It's the last part of it, I'm 24 trying to make sure I have down. 25 MR. GREENFIELD: "The Union Local 556</p>	<p style="text-align: right;">Page 1898</p> <p>1 denies that Audrey Stone was acting in her official 2 capacity when she reported Plaintiff Carter to 3 Southwest Airlines," or, "that her reporting was 4 motivated by Plaintiff Carter's religion." 5 THE COURT: I think we need to say 6 religious -- what is the phrase? 7 MR. GILLIAM: Religious observances, 8 beliefs, and practices. 9 MR. GREENFIELD: No objection to that, 10 your Honor. 11 THE COURT: I think we need to make it 12 disjunctive for this sentence, the practices, not to 13 nerd out too much. 14 MR. GREENFIELD: Don't let your appellate 15 show too much, your Honor. 16 THE COURT: Okay. Instead of reading it 17 back, I'm just going to flash it up on the screen 18 for y'all. I think I can show my screen. 19 Okay. So it is the top paragraph that you 20 are looking at. It's the last sentence of that 21 first full paragraph. So anyone tell me if I have 22 gotten something wrong in that language. 23 And then I think the order of is it 24 observances, practices, or beliefs, to be consistent 25 with the next sentence.</p>

<p style="text-align: right;">Page 1899</p> <p>1 MR. GREENFIELD: Yes, your Honor. That</p> <p>2 looks correct.</p> <p>3 THE COURT: But then we switch the order</p> <p>4 in the bottom paragraph to beliefs, observances, or</p> <p>5 practices, so I guess consistency is out the window</p> <p>6 at this point, right? As long as we have those</p> <p>7 three elements, that is what matters.</p> <p>8 Okay. Any issues elsewhere?</p> <p>9 MR. GREENFIELD: Yes, in the third</p> <p>10 paragraph, your Honor.</p> <p>11 THE COURT: Yes, sir.</p> <p>12 MS. GREEN: In the elements of .1, it</p> <p>13 says, "That Defendant Local 556 treated Plaintiff</p> <p>14 Carter less favorably than other employees."</p> <p>15 We would like that to be, "That Defendant</p> <p>16 Local 556 treated Plaintiff Carter less favorably</p> <p>17 than other similarly-situated non-Christian</p> <p>18 employees."</p> <p>19 THE COURT: Response from the Union --</p> <p>20 sorry, from Carter?</p> <p>21 MR. GILLIAM: Yes, I don't see how that</p> <p>22 requirement applies here, how the similarly</p> <p>23 situated --</p> <p>24 THE COURT: Yes, I can similarly-situated.</p> <p>25 I can't see Christian or non-Christian, adding that</p>	<p style="text-align: right;">Page 1900</p> <p>1 in.</p> <p>2 MR. GREENFIELD: Okay. I believe that</p> <p>3 tracks Title VII language as far as the causation</p> <p>4 standard, that how you were being treated</p> <p>5 differently has to be from -- differently from</p> <p>6 somebody outside of your protected class, her</p> <p>7 protected class being Christian.</p> <p>8 So the person who must have been treated</p> <p>9 more or less favorably needs to be outside of that</p> <p>10 protected class.</p> <p>11 THE COURT: Right. But then I'm giving</p> <p>12 the jury the questions of law after instructing them</p> <p>13 on what that is. So my instruction might be</p> <p>14 similarly situated, but if I'm going to go tell them</p> <p>15 what it is, it would be like me telling them, I find</p> <p>16 the following is protected activity, right?</p> <p>17 So if I tell them, Here is her class, then</p> <p>18 I think I'm really grabbing the things from their</p> <p>19 province that I'm supposed to instruct them on and</p> <p>20 have them find.</p> <p>21 So I can see things similarly situated, I</p> <p>22 can't see going so far as to define the protected</p> <p>23 class.</p> <p>24 So do you have thoughts on whether I say</p> <p>25 "similarly situated" in between "other" and</p>
<p style="text-align: right;">Page 1901</p> <p>1 "employees," Mr. Gilliam?</p> <p>2 MR. GILLIAM: The problem is the legal</p> <p>3 definition of similarly situated. And, again, the</p> <p>4 potential to confuse the jury with that.</p> <p>5 THE COURT: Yes. I think I will probably</p> <p>6 leave it, because I think we have got the concept of</p> <p>7 similarly situated coming into number 2 when we talk</p> <p>8 about it's her religious beliefs, observances, or</p> <p>9 practices. So my inclination is to leave it. So I</p> <p>10 will overrule that request for similarly situated</p> <p>11 and the religious specification.</p> <p>12 MR. GREENFIELD: Nothing else from the</p> <p>13 Union on that section, your Honor.</p> <p>14 THE COURT: Okay.</p> <p>15 MR. GILLIAM: Plaintiff has nothing for</p> <p>16 No. 2.</p> <p>17 THE COURT: All right. I assume nothing</p> <p>18 from Southwest on a section that is not about</p> <p>19 Southwest?</p> <p>20 MR. MORRIS: Yes, nothing from Southwest.</p> <p>21 THE COURT: Got it. Okay.</p> <p>22 The next section is you, Mr. Morris. So</p> <p>23 failure to accommodate against Southwest as to C-3.</p> <p>24 So who has got an issue with C-3?</p> <p>25 MR. GILLIAM: Your Honor, I guess elements</p>	<p style="text-align: right;">Page 1902</p> <p>1 1 and 2 of what Ms. Carter has to prove, it -- I</p> <p>2 guess our objection is to the inclusion of language</p> <p>3 about conflicting with the job requirement. We</p> <p>4 think that is sort of inherent with the facts here</p> <p>5 under Abercrombie.</p> <p>6 We think that the elements should</p> <p>7 basically mirror those set forth in the Abercrombie</p> <p>8 decision that Ms. Carter was fired because of her</p> <p>9 religion, and that those should be the elements,</p> <p>10 fired because of religion.</p> <p>11 Or maybe stated another way, let's see,</p> <p>12 that -- that -- that Ms. Carter was fired and that</p> <p>13 Defendant Southwest discharged Carter with the</p> <p>14 motive of avoiding the need for accommodating a</p> <p>15 religious belief, observance, or practice.</p> <p>16 THE COURT: All right. I understand that</p> <p>17 request. I will reject it.</p> <p>18 What is the next issue with C-3?</p> <p>19 MR. MORRIS: Your Honor, I will reiterate</p> <p>20 what we raised this morning about a violation that</p> <p>21 occurs prior to the request of the knowledge of the</p> <p>22 need for an accommodation, and request that in an</p> <p>23 instruction indicating that if an employee violates</p> <p>24 a policy before the request or need for an</p> <p>25 accommodation is known, that there is no obligation</p>

<p style="text-align: right;">Page 1903</p> <p>1 to provide an accommodation.</p> <p>2 THE COURT: I understand that request. I</p> <p>3 will reject that one as well.</p> <p>4 MR. MORRIS: I don't know -- if the Union</p> <p>5 doesn't have another, regarding to the undue</p> <p>6 hardship defense, that we raised this morning,</p> <p>7 again, we think the Court's instruction overstates</p> <p>8 the burden and doesn't include all of the various</p> <p>9 burdens that could constitute an undue hardship,</p> <p>10 including but not limited to burden to other</p> <p>11 employees, potential future harms, it doesn't</p> <p>12 actually have to be any kind of monetary loss, et</p> <p>13 cetera.</p> <p>14 And we provided cases to that effect.</p> <p>15 So we think this statement of the undue</p> <p>16 hardship defense is just an overstatement of the</p> <p>17 law. And then related to that, we think an</p> <p>18 instruction that an employer does not have an</p> <p>19 obligation to provide an accommodation that entitles</p> <p>20 employees to proselytize should be included as well.</p> <p>21 THE COURT: I understand that. I will</p> <p>22 reject it because I think the last phrase</p> <p>23 "disruption of the business" is a sufficient place</p> <p>24 to put your concepts.</p> <p>25 MR. MORRIS: I have one more, if nobody</p>	<p style="text-align: right;">Page 1904</p> <p>1 else --</p> <p>2 THE COURT: You may.</p> <p>3 MR. MORRIS: The instruction that was</p> <p>4 just -- that was added regarding purporting to</p> <p>5 define accommodation, I think is not accurate.</p> <p>6 And I think a more general statement from</p> <p>7 some of the Fifth Circuit case law stating that an</p> <p>8 accommodation is one that eliminates the conflict</p> <p>9 between the religious belief and the employer</p> <p>10 practice would be appropriate.</p> <p>11 THE COURT: So what language are you</p> <p>12 suggesting should go? I'm trying to find which spot</p> <p>13 you are critiquing.</p> <p>14 MR. MORRIS: Oh, I apologize.</p> <p>15 It is the second paragraph at the second</p> <p>16 sentence.</p> <p>17 THE COURT: Okay. And you suggest</p> <p>18 swapping that with?</p> <p>19 MR. MORRIS: Just one second. I'm trying</p> <p>20 to formulate that myself.</p> <p>21 THE COURT: Sure.</p> <p>22 MR. MORRIS: If we could come back to it.</p> <p>23 I don't want to hold everybody else up, if that's</p> <p>24 okay. I can propose some language before we --</p> <p>25 THE COURT: Sure. That's fine. And I</p>
<p style="text-align: right;">Page 1905</p> <p>1 will just say the sentence that you are addressing</p> <p>2 says "an accommodation means allowing the employee</p> <p>3 to engage in her religious practice or observance,</p> <p>4 despite the employer's normal rules to the</p> <p>5 contrary."</p> <p>6 And then we can come back to whatever</p> <p>7 language you want to propose for that.</p> <p>8 MR. MORRIS: Sure.</p> <p>9 THE COURT: Any other issues with C-3,</p> <p>10 Southwest's accommodation?</p> <p>11 MR. GILLIAM: Yes, your Honor.</p> <p>12 There is some more language from</p> <p>13 Abercrombie that we think is important, that the</p> <p>14 charge should explain to the jury that employers may</p> <p>15 not fire employees for their religious observance,</p> <p>16 beliefs, and practices under an otherwise neutral</p> <p>17 policy. And that Title VII requires an otherwise</p> <p>18 neutral policies to give way to the need for an</p> <p>19 accommodation.</p> <p>20 THE COURT: Right. I understand that</p> <p>21 request. I will reject that at this point.</p> <p>22 MR. GILLIAM: And one more in that same</p> <p>23 vein is that we think the charge should inform the</p> <p>24 jury that Title VII imposes an affirmative</p> <p>25 obligation on employers not to fire an employee</p>	<p style="text-align: right;">Page 1906</p> <p>1 because of some aspect of her religious observances,</p> <p>2 beliefs, or practices.</p> <p>3 THE COURT: All right. I will reject that</p> <p>4 one as well.</p> <p>5 Any other issues on C-3 other than the one</p> <p>6 I'm putting a pin on for Southwest?</p> <p>7 MR. GILLIAM: Well, one more, and I</p> <p>8 suspect I understand where your position is on this,</p> <p>9 but for the record, just that the Court should also,</p> <p>10 for the same reasons as stated with the other</p> <p>11 Abercrombie language, is that the jury charge should</p> <p>12 exclude the instruction that an employer may</p> <p>13 terminate an employee for other reasons, good or</p> <p>14 bad, fair or unfair.</p> <p>15 THE COURT: Where is that language?</p> <p>16 MR. GILLIAM: You know what, that may have</p> <p>17 just appeared in one. Yes, that just appears in</p> <p>18 one, subsection one.</p> <p>19 THE COURT: It is not in C-3. Got it.</p> <p>20 Okay. Any other issues on C-3?</p> <p>21 All right. C-4 is where we are at now,</p> <p>22 and that is accommodation against the Union.</p> <p>23 MR. GILLIAM: For, I guess, all of our</p> <p>24 requests that we made for C-3, we would also</p> <p>25 reiterate for C-4 as well.</p>

<p style="text-align: right;">Page 1907</p> <p>1 THE COURT: I appreciate that. I will</p> <p>2 overrule those requests at this time.</p> <p>3 MR. GILLIAM: Maybe some -- I guess also</p> <p>4 we would add some parallel language, like you find</p> <p>5 in C-3, that attempting to cause the employee to</p> <p>6 discriminate -- and I'm sorry -- the employer to</p> <p>7 discriminate in these circumstances would be</p> <p>8 synonymous with refusing to accommodate an</p> <p>9 employee's religious observances, beliefs, and</p> <p>10 practices.</p> <p>11 THE COURT: All right. I see your</p> <p>12 request. I will overrule that.</p> <p>13 MR. GILLIAM: Okay.</p> <p>14 MR. GREENFIELD: The Union has nothing to</p> <p>15 request on that section.</p> <p>16 THE COURT: On 4?</p> <p>17 Mr. Morris, you don't have any language</p> <p>18 handy yet on C-3, do you? Before we get to damages?</p> <p>19 MR. MORRIS: Let's move on to damages. I</p> <p>20 will get you that.</p> <p>21 THE COURT: That is fine.</p> <p>22 Okay. Damages is on my page 19.</p> <p>23 So what issues do we have on a first</p> <p>24 section on damages before we get to actual damages?</p> <p>25 MR. GREENFIELD: Nothing from the Union,</p>	<p style="text-align: right;">Page 1908</p> <p>1 your Honor.</p> <p>2 MR. GILLIAM: Nothing from plaintiff, your</p> <p>3 Honor.</p> <p>4 MR. MORRIS: Nothing from Southwest.</p> <p>5 THE COURT: All right.</p> <p>6 How about the actual damages, small</p> <p>7 paragraph?</p> <p>8 MR. GILLIAM: Nothing from plaintiff.</p> <p>9 MR. GREENFIELD: None from the Union.</p> <p>10 Your Honor, the word "Charlene" was taken out of one</p> <p>11 of the -- out of the draft and it threw off my --</p> <p>12 THE COURT: Pagination? Sorry. One word</p> <p>13 can cause a big headache when it comes to page</p> <p>14 numbers.</p> <p>15 Okay. Anything from Southwest on actual</p> <p>16 damages?</p> <p>17 MR. MORRIS: No, your Honor.</p> <p>18 THE COURT: Okay. How about back pay?</p> <p>19 MR. GILLIAM: Nothing from plaintiff, your</p> <p>20 Honor.</p> <p>21 MR. MORRIS: Your Honor, from Southwest, I</p> <p>22 don't think there is anything in the record</p> <p>23 regarding all of these various categories of damages</p> <p>24 that have been identified here. It is certainly</p> <p>25 nothing as to the amounts.</p>
<p style="text-align: right;">Page 1909</p> <p>1 So we don't think it is appropriate to</p> <p>2 instruct the jury as to items -- you know, tax</p> <p>3 relief shared with employees, for example, that are</p> <p>4 not even in the record.</p> <p>5 THE COURT: Understood.</p> <p>6 Are there things in that category that we</p> <p>7 do remember being discussed? Like, if we are going</p> <p>8 to narrow down, what would we narrow it down to?</p> <p>9 MR. MORRIS: The only thing that from I</p> <p>10 recall from the record is health insurance.</p> <p>11 MR. GILLIAM: Seniority rights and</p> <p>12 benefits were discussed.</p> <p>13 MR. MORRIS: Is that monetized -- I don't</p> <p>14 know if that's a monetized one. I don't know if</p> <p>15 there is anything in the record about the amounts.</p> <p>16 MR. GILLIAM: I think we said insurance,</p> <p>17 right?</p> <p>18 THE COURT: Yes, health insurance was</p> <p>19 definitely in there.</p> <p>20 I don't recall a monetary figure going on</p> <p>21 seniority benefits.</p> <p>22 MR. GILLIAM: I don't know if you got</p> <p>23 that, your Honor, the jury can value that.</p> <p>24 THE COURT: So, yes, and my inclination is</p> <p>25 to put it in, even if it wasn't monetized. But if</p>	<p style="text-align: right;">Page 1910</p> <p>1 we are talking about all benefits, we talked about</p> <p>2 health insurance and seniority benefits.</p> <p>3 MR. GILLIAM: Yes, your Honor.</p> <p>4 THE COURT: Okay. So I'm going to mark</p> <p>5 this up a little bit. I'm going to say, "And such</p> <p>6 benefits as health insurance and seniority</p> <p>7 benefits."</p> <p>8 MR. MORRIS: That is good with Southwest.</p> <p>9 MR. GREENFIELD: And, your Honor, just on</p> <p>10 back pay, one last issue. After the first sentence,</p> <p>11 just perhaps to avoid any confusion about what that</p> <p>12 time period is, just to conclude what Carter would</p> <p>13 have earned had she remained an employee of</p> <p>14 Defendant Southwest from the time of her termination</p> <p>15 through the time of trial.</p> <p>16 I believe that is how back pay is defined.</p> <p>17 THE COURT: Any issues with the time</p> <p>18 frame?</p> <p>19 MR. GILLIAM: What was the time frame?</p> <p>20 THE COURT: Termination through trial.</p> <p>21 MR. GILLIAM: For back pay? Well --</p> <p>22 THE COURT: I think we have an instruction</p> <p>23 up here, if you wouldn't mind, at the end of 19, we</p> <p>24 say that you should consider the following elements</p> <p>25 of actual damages, the amount of back pay is, what</p>

<p style="text-align: right;">Page 1911</p> <p>1 she would have earned had she not been terminated</p> <p>2 from her employment from March 14th to the date of</p> <p>3 the verdict.</p> <p>4 So I think we defined it up top.</p> <p>5 MR. GREENFIELD: Right.</p> <p>6 I just missed that.</p> <p>7 THE COURT: No. And that's right, it</p> <p>8 needs to be in there. I just want to make sure it</p> <p>9 is close enough where they can link back and see it.</p> <p>10 Other issues on back pay?</p> <p>11 Punitive damages are next.</p> <p>12 Issues on the punitive language? It is a</p> <p>13 long section.</p> <p>14 MR. GREENFIELD: Yes, your Honor. In</p> <p>15 regard to elements that are laid out, "you may award</p> <p>16 punitive damages," we would object that it misstates</p> <p>17 the law. No member of 556 could meet the punitive</p> <p>18 damages requirement of an individual acting in a</p> <p>19 managerial capacity.</p> <p>20 Plainly, "managerial capacity" refers to</p> <p>21 the members of Southwest Airlines' management. But</p> <p>22 even if union officials were analogized to</p> <p>23 managers -- analogized, excuse me -- Plaintiff</p> <p>24 Carter was not a member of 556 and submitted to no</p> <p>25 managerial authority that the executive board may be</p>	<p style="text-align: right;">Page 1912</p> <p>1 interpreted to have. I don't believe that punitive</p> <p>2 damages apply.</p> <p>3 THE COURT: Understood.</p> <p>4 What is the response, Mr. Gilliam, to the</p> <p>5 Union's structure on the punitives argument?</p> <p>6 MR. GILLIAM: Yes. I mean, managerial</p> <p>7 capacity is more of a term of art. And I think that</p> <p>8 President Stone was certainly acting in a managerial</p> <p>9 capacity, so the instruction is appropriate.</p> <p>10 THE COURT: So I'm going to leave it in at</p> <p>11 this time. This is the kind of thing where if it</p> <p>12 does get awarded, then I would expect a more robust,</p> <p>13 post-trial briefing on what the legal standard is</p> <p>14 and then what evidence came into play, if that makes</p> <p>15 sense.</p> <p>16 But at this time, I don't think I'm going</p> <p>17 to pull it out of the jury's purview based on what I</p> <p>18 have seen.</p> <p>19 Other issues on punitive damages?</p> <p>20 MR. MORRIS: Yes, your Honor. I have one.</p> <p>21 On the -- I don't know, it is pretty far</p> <p>22 down.</p> <p>23 In determining whether -- hold on --</p> <p>24 Defendant Southwest or Local 556 made a good faith</p> <p>25 effort to prevent discrimination, that paragraph, on</p>
<p style="text-align: right;">Page 1913</p> <p>1 the fourth line, it refers to how or whether they</p> <p>2 responded to Plaintiff Charlene Carter's complaint</p> <p>3 of discrimination.</p> <p>4 THE COURT: Can you identify the paragraph</p> <p>5 right quick? I'm still --</p> <p>6 MR. MORRIS: Sure. Yes. It is one -- it</p> <p>7 is the sixth paragraph.</p> <p>8 THE COURT: Okay. With the last two words</p> <p>9 of that paragraph being "of discrimination"?</p> <p>10 MR. MORRIS: Yes.</p> <p>11 THE COURT: Okay. I'm there.</p> <p>12 MR. MORRIS: The reference to the</p> <p>13 considerations that one could look at for punitives,</p> <p>14 says how or whether they responded to Plaintiff</p> <p>15 Carter's complaint of discrimination, I don't think</p> <p>16 there is anything in the record of a complaint of</p> <p>17 discrimination made by Ms. Carter.</p> <p>18 THE COURT: Well, there is an EEOC</p> <p>19 complaint, Exhibit No. 2, that is in the record. So</p> <p>20 I guess the question is, are we confusing the jury,</p> <p>21 right? By having that language in there?</p> <p>22 MR. MORRIS: Right.</p> <p>23 THE COURT: What are you suggesting we</p> <p>24 should have its place, anything?</p> <p>25 MR. MORRIS: Our suggestion would be just</p>	<p style="text-align: right;">Page 1914</p> <p>1 to delete it. She was terminated at that point.</p> <p>2 THE COURT: Thoughts on how to handle that</p> <p>3 phrase, how or whether they responded to Carter's</p> <p>4 complaint of discrimination?</p> <p>5 MR. GILLIAM: This is the one about Local</p> <p>6 556, right?</p> <p>7 THE COURT: Let me scroll back up.</p> <p>8 MR. GREENFIELD: Okay. Now I'm lost.</p> <p>9 MR. GILLIAM: With respect to Defendant</p> <p>10 Local 556 --</p> <p>11 THE COURT: I mean, the lead-in sentence</p> <p>12 talks about both, Southwest and 556.</p> <p>13 So Southwest is proposing we admit how or</p> <p>14 whether they responded to Plaintiff Charlene</p> <p>15 Carter's complaints of discrimination saying there</p> <p>16 are no complaints of discrimination in this case to</p> <p>17 Southwest. Therefore, it is irrelevant.</p> <p>18 MR. GILLIAM: My concern is the, I guess,</p> <p>19 Local 556's acts or other attempts to discriminate</p> <p>20 against -- or to turn in other employees and whether</p> <p>21 this would exclude that from consideration.</p> <p>22 So I would -- which is what I don't want</p> <p>23 to do.</p> <p>24 THE COURT: Right.</p> <p>25 I'm trying to figure out is there a way to</p>

<p style="text-align: right;">Page 1915</p> <p>1 phrase it that accomplishes what you want to, but 2 doesn't say "complaint of discrimination," which 3 seems like a term of art that wasn't really used in 4 this case, if that makes sense. 5 I see Southwest's point. I don't know 6 what "it" means. "It" means something. Is there a 7 different way to phrase what "it" means? 8 MR. GREENFIELD: I have not thought of one 9 yet. 10 THE COURT: Okay. It is pattern language, 11 so the question is, do we need to adapt the pattern 12 language to match this case to avoid a jury question 13 on what was the complaint of discrimination? 14 All right. So if we can come up with an 15 understanding of what we-all view it to mean, 16 then -- 17 MR. GREENFIELD: I would rather just stick 18 with the pattern language, your Honor. 19 MR. GILLIAM: I think we are fine with the 20 pattern language. 21 MR. MORRIS: We are not fine with the 22 pattern language. 23 THE COURT: I get that you are not. But 24 the question is, I can't -- I can't omit it unless I 25 have something to run with, right?</p>	<p style="text-align: right;">Page 1916</p> <p>1 The patterns were meaning to accomplish 2 something, which may have been as simple as what 3 happens to Charlene Carter in this case, right? 4 Now, that is an inartful way of phrasing 5 it, but it means something. I'm not okay with 6 changing the something to nothing. So I have to 7 leave in the something for now, unless the something 8 can be changed to something clearer. 9 MR. MORRIS: Frankly, I am just having a 10 hard time because there was no complaint of 11 discrimination, so I don't know what we would say as 12 an alternative, given that there wasn't one. 13 THE COURT: Right. Which gets back to the 14 issue with the conflict and an accommodation. 15 MR. McKEEBY: Well, what about something 16 like Ms. Carter's situation, which is -- 17 THE COURT: That is what I was getting at, 18 right? 19 MR. McKEEBY: Yes. I think that at least 20 is -- at least less confusing. I think the jury 21 would read that and understand what you mean, where 22 as with this, they may not know -- are you talking 23 about the EEOC charge or something else? 24 I mean, the language is not particularly 25 precise, but I think it is better than this.</p>
<p style="text-align: right;">Page 1917</p> <p>1 THE COURT: And if we made that change, we 2 would have to make a corresponding change in the 3 next sentence, which talks about with the Union, we 4 can talk about other people, right? We would have 5 to talk about other union members' situations. 6 MR. McKEEBY: It's overruled. 7 MR. MORRIS: Well, I just think 8 "situation" sort of suggests they could consider all 9 kinds of things. 10 THE COURT: Sure. 11 MR. MORRIS: And, quite frankly, I think 12 that is not appropriate. This was intended to allow 13 them to consider one thing. 14 THE COURT: That is fair. What I'm going 15 to say is, we all agree that this language sucks 16 from the patterns, but we can't figure out a better 17 way to do it. 18 So if someone has a bright idea before we 19 finish our formal charge conference, come back and 20 let me know. It is on my page 22. So I'm going to 21 put a placeholder on it. 22 MR. MORRIS: Actually, I might have a 23 proposal. 24 THE COURT: Okay. Did lightning strike, 25 Mr. Morris?</p>	<p style="text-align: right;">Page 1918</p> <p>1 MR. MORRIS: Maybe. 2 THE COURT: Okay. 3 MR. MORRIS: You could say, if there is 4 evidence that Carter made the complaint of 5 discrimination to Southwest, it could be considered 6 in addressing punitive damages or something like 7 that. 8 THE COURT: Sure. I mean, it is as good 9 as anything we have seen, which ain't saying much. 10 MR. GILLIAM: Right. 11 I think at that point, we prefer the 12 pattern instruction. 13 THE COURT: My inclination is, if we stick 14 to the pattern, and we may see a question on this. 15 They may ask us what complaint of discrimination are 16 you talking about? And then we will have to figure 17 it out. 18 But until then, I haven't heard anything 19 that I'm more comfortable with than the pattern. 20 But I like the fact that you brought it 21 up. If no one brings up the idea, then we won't get 22 a better idea. 23 Okay. So I will overrule the request for 24 now on changing the language from the patterns on 25 complaint of discrimination in the section on</p>

<p style="text-align: right;">Page 1919</p> <p>1 punitive damages that we are on. 2 What other issues do we have with the 3 punitive damage instructions? 4 I will say, with regard to your pointing 5 out of that language, we say "Charlene," when he 6 have kept out her first name, except for the first 7 reference, so I am going to delete the word 8 "Charlene" from that sentence. 9 Okay. Other language on punitives? 10 MR. GILLIAM: Nothing from plaintiffs. 11 MR. MORRIS: Nothing from Southwest. 12 MR. GREENFIELD: Nothing else from the 13 Union. 14 THE COURT: Okay. I found one more 15 reference to Charlene after the enumerated list of 16 three and the punitive instructions, so I have got 17 that. 18 So we are done with punitives. We are on 19 to front pay. In my draft, that is page 23, is 20 where it starts. 21 MR. GREENFIELD: And just, your Honor, if 22 I may? 23 THE COURT: You may. 24 MR. GREENFIELD: We either would ask for 25 an instruction or some other alternative as we</p>	<p style="text-align: right;">Page 1920</p> <p>1 don't -- we object to being -- to front pay being 2 applied to us. 3 In our formal conference briefing, we cite 4 to Mota v. University of Texas, Texas Health, front 5 pay, definition-ally covers monetary damages for 6 future lost wages and benefits, front pay is awarded 7 only when reinstatement is not feasible because 8 hostile relationships exists between the employer 9 and the employee. Front pay is an equitable remedy 10 to be determined by the Court at the conclusion of 11 the trial, but an advisory jury may be used. 12 The Union has no ability to give 13 Ms. Carter her job back or have any say in that, and 14 we should not be liable for any front pay damages. 15 THE COURT: I understand that argument. 16 Let me say two things about it. 17 First, I'd probably like to consider it 18 more in a post-verdict context, when we have had the 19 benefit of the full record and the full briefing on 20 it. 21 But let me ask this question: When you 22 said advisory, yes, I do agree that they wouldn't be 23 binding on me unless I said nothing about advisory 24 and everyone consented to it. 25 I'm fine putting in an advisory caveat. I</p>
<p style="text-align: right;">Page 1921</p> <p>1 thought about that, and so I can put it in here if 2 it is not in here already. 3 Any objections to me putting in an 4 advisory caveat? And then if they go haywire, then 5 we can all revisit it in post-trial proceedings, 6 whether that is on the paper with affidavits or that 7 is another evidentiary hearing. 8 MR. GILLIAM: I think you have one in 9 there, your Honor. 10 THE COURT: Do I have one in there? Is it 11 in the questions, not here? Or is it somewhere else 12 in -- 13 MR. GILLIAM: The very last sentence in 14 that section. 15 MR. GREENFIELD: Your Honor, I just 16 included kind of the full scope of what I thought 17 front pay was. And I bet you it left it at that, it 18 is just that it doesn't -- we believe it doesn't 19 apply to the Union. 20 That is all that was for. 21 THE COURT: Okay. Got it. 22 And so I'm only overruling it to the 23 extent I don't know enough about it yet. I'm going 24 to see what the jury says. 25 And we did have the caveat on advisory, so</p>	<p style="text-align: right;">Page 1922</p> <p>1 I think we are covered there. 2 Okay. Other issues with front pay? 3 MR. GILLIAM: Nothing from plaintiff. 4 MR. MORRIS: Nothing. We just -- well, 5 aside from reiterating the objection that it is for 6 the Court, but, you know, nothing additional. 7 THE COURT: Understood. 8 So I will understand that objection, which 9 is why I'm putting in the advisory language. I'm 10 not bound by it at all. 11 Okay. So now we should look at nominal 12 damages. 13 MR. GILLIAM: Nothing from plaintiff. 14 THE COURT: Anything on nominal from 15 Southwest or the Union? 16 MR. GREENFIELD: None from the Union, your 17 Honor. 18 MR. MORRIS: None from Southwest, your 19 Honor. 20 THE COURT: All right. 21 So mitigation is next. 22 MR. GREENFIELD: Just to make note to the 23 Court that it says "Charlene" several times, but 24 other than that ... 25 THE COURT: Thank you.</p>

<p style="text-align: right;">Page 1923</p> <p>1 In mitigation --</p> <p>2 MR. GREENFIELD: Or -- I'm sorry, no. It</p> <p>3 is taken out. It was in my old copy.</p> <p>4 Sorry, Ms. Silver.</p> <p>5 THE COURT: Every draft is getting</p> <p>6 slightly better.</p> <p>7 MR. GREENFIELD: Take my stones back.</p> <p>8 THE COURT: And plenty other places.</p> <p>9 MR. GREENFIELD: The Union has no issue</p> <p>10 with the mitigation instruction.</p> <p>11 THE COURT: All right.</p> <p>12 Any issue from Carter or Southwest on the</p> <p>13 mitigation language?</p> <p>14 MR. GILLIAM: Nothing from Carter.</p> <p>15 MR. MORRIS: Yes, your Honor.</p> <p>16 The first requirement indicating that</p> <p>17 there has to be substantially equivalent employment</p> <p>18 available.</p> <p>19 We think that is not appropriate based on</p> <p>20 the evidence in the record that Ms. Carter ceased</p> <p>21 looking for employment and was engaged in various</p> <p>22 nonprofit endeavors.</p> <p>23 So we think the instruction should</p> <p>24 indicate that if you cease searching for employment,</p> <p>25 you've failed to mitigate at that time.</p>	<p style="text-align: right;">Page 1924</p> <p>1 THE COURT: Understood.</p> <p>2 Response?</p> <p>3 MR. GILLIAM: It is an element of the</p> <p>4 mitigation, right? So I think that they do have</p> <p>5 that burden to prove.</p> <p>6 MR. MORRIS: If it helps the Court, we</p> <p>7 cited various cases on this issue in our response to</p> <p>8 the instruction that indicate that if there is</p> <p>9 evidence that an employee has ceased looking for a</p> <p>10 job, then that mitigation instruction could be</p> <p>11 altered.</p> <p>12 THE COURT: Understood.</p> <p>13 I think I'm going to leave it as is. So I</p> <p>14 will overrule that objection.</p> <p>15 Okay. Other issues on mitigation?</p> <p>16 MR. GREENFIELD: None from us, your Honor.</p> <p>17 MR. GILLIAM: None from plaintiff.</p> <p>18 MR. MORRIS: No others from Southwest.</p> <p>19 THE COURT: All right.</p> <p>20 Duty to deliberate. First paragraph is on</p> <p>21 notes, and it addresses from there.</p> <p>22 MR. GREENFIELD: Nothing from the Union,</p> <p>23 your Honor.</p> <p>24 MR. GILLIAM: Nothing from plaintiff.</p> <p>25 MR. MORRIS: Nothing from Southwest.</p>
<p style="text-align: right;">Page 1925</p> <p>1 THE COURT: Okay.</p> <p>2 What I will do, then is I will give y'all</p> <p>3 a 10-minute break. We can use the bathroom, and</p> <p>4 then come back and talk about the jury questions.</p> <p>5 And then that will be it for y'all for the</p> <p>6 day for here. And then we will work on printing</p> <p>7 this thing out, once we've made any final changes</p> <p>8 based on reviewing a couple of things that I</p> <p>9 flagged.</p> <p>10 Okay. So we are in a 10-minute recess.</p> <p>11 I will see y'all at 4:46.</p> <p>12 THE COURT SECURITY OFFICER: All rise.</p> <p>13 (Recess.)</p> <p>14 THE COURT SECURITY OFFICER: All rise.</p> <p>15 THE COURT: Thank you. You can be seated.</p> <p>16 MR. McKEEBY: Your Honor, Mr. Morris has</p> <p>17 the proposed language on that one instruction he</p> <p>18 wants to read, and I actually also have a</p> <p>19 housekeeping-type question.</p> <p>20 THE COURT: You bet. Housekeeping first?</p> <p>21 MR. McKEEBY: Yes, please.</p> <p>22 I'm assuming, given that the evidence is</p> <p>23 closed, that if elect to use a PowerPoint during my</p> <p>24 closing, I do not need to share that with counsel?</p> <p>25 But I wanted to confirm that now before --</p>	<p style="text-align: right;">Page 1926</p> <p>1 THE COURT: Sure.</p> <p>2 So my request is for -- and I said this</p> <p>3 briefly before we did voir dire on day one. If</p> <p>4 y'all have demonstratives that you want to use that</p> <p>5 exist, then please disclose them the night before at</p> <p>6 8:00, so do not disclose them at 6. I assume you</p> <p>7 will be working on them at 6. But if you can</p> <p>8 disclose them the night before at 8.</p> <p>9 That is for anyone who is using a</p> <p>10 PowerPoint for closing tomorrow. Show it to the</p> <p>11 other side, so we can talk about it tomorrow before</p> <p>12 the jury gets here and we read the charge.</p> <p>13 Does that make sense?</p> <p>14 MR. McKEEBY: So the entire PowerPoint,</p> <p>15 then, not just the demonstratives?</p> <p>16 THE COURT: That's correct.</p> <p>17 MR. PRYOR: So the displaying of exhibits</p> <p>18 to the jury, testimony from the dailies that is not</p> <p>19 part of a PowerPoint, can be utilized?</p> <p>20 THE COURT: How would it not be part of</p> <p>21 the PowerPoint?</p> <p>22 MR. PRYOR: I'm sorry? Yes, okay.</p> <p>23 THE COURT: So my question to you is, I</p> <p>24 didn't hear your question fully. You are asking --</p> <p>25 MR. PRYOR: Yes. I'm not doing a</p>

<p style="text-align: right;">Page 1927</p> <p>1 PowerPoint. It is --</p> <p>2 THE COURT: What are you doing?</p> <p>3 MR. PRYOR: That is too close to my</p> <p>4 bedtime.</p> <p>5 But I have to -- I'm going to use</p> <p>6 exhibits. I'll say Matt, put exhibit so and so up.</p> <p>7 I may refer to a daily trial transcript as</p> <p>8 demonstrative evidence. And I will fill in the</p> <p>9 blanks on the jury form, but I'm not sure what I'm</p> <p>10 going to do until I put it on the ELMO.</p> <p>11 THE COURT: Sure. So on the ELMO, that is</p> <p>12 something that doesn't currently exist, right? But</p> <p>13 when we are talking about depo transcripts, that is</p> <p>14 something that does exist, right? That you are not</p> <p>15 creating on the fly.</p> <p>16 MR. PRYOR: Right.</p> <p>17 THE COURT: So I would ask you to disclose</p> <p>18 that or -- you can just say numbers, right? You</p> <p>19 don't have to --</p> <p>20 MR. PRYOR: What am I disclosing?</p> <p>21 THE COURT: Exhibits or numbers, right?</p> <p>22 So what I'm saying is, you're trying to</p> <p>23 make sure you do the same thing he does, but to not</p> <p>24 put in a PowerPoint, so you don't have to show it to</p> <p>25 him. And I don't think that is fair, right?</p>	<p style="text-align: right;">Page 1928</p> <p>1 So either we all show PowerPoints, or what</p> <p>2 we are going to use, or we don't show anything.</p> <p>3 But I don't think I can have one rule for</p> <p>4 the people who use PowerPoint and a different rule</p> <p>5 for the people who use the native exhibit and then</p> <p>6 pull up a depo transcript.</p> <p>7 MR. McKEEBY: Oh, trial transcript.</p> <p>8 THE COURT: Trial transcript.</p> <p>9 MR. PRYOR: Your Honor, it is also very</p> <p>10 possible during my closing I will think of an</p> <p>11 exhibit that I want. And I don't know tonight.</p> <p>12 I mean, I will be happy to -- I'm making a</p> <p>13 list right now. But you are telling me on the fly</p> <p>14 tomorrow if I decide, oh, I do want to see</p> <p>15 Exhibit 66, pull up -- I happen to know what that</p> <p>16 one is.</p> <p>17 THE COURT: As long you are okay not</p> <p>18 seeing the PowerPoint at all, that is fine by me,</p> <p>19 right? That is what we are getting into is, I want</p> <p>20 to make sure we don't have an incongruence here,</p> <p>21 where you get to see their stuff and they don't get</p> <p>22 to see your stuff.</p> <p>23 MR. McKEEBY: I'm fine with that. I</p> <p>24 prefer that, frankly.</p> <p>25 MR. PRYOR: Okay.</p>
<p style="text-align: right;">Page 1929</p> <p>1 THE COURT: How about this: I just ask</p> <p>2 that if you are pulling from trial materials, that</p> <p>3 is actually the trial materials, right? You are</p> <p>4 actually pulling from the depo, the trial</p> <p>5 transcript, you are actually pulling from the</p> <p>6 exhibit, and you are not altering it in any way,</p> <p>7 right?</p> <p>8 MR. McKEEBY: So we are not sharing it?</p> <p>9 THE COURT: Not sharing.</p> <p>10 MR. PRYOR: Okay.</p> <p>11 THE COURT: And also not fabricating</p> <p>12 anything, right?</p> <p>13 MR. PRYOR: You are so strict.</p> <p>14 THE COURT: I know.</p> <p>15 MR. HILL: On not fabricating, let me make</p> <p>16 sure we are that we are on the same page on one</p> <p>17 issue here.</p> <p>18 THE COURT: Sure.</p> <p>19 MR. HILL: One thing we may do is show a</p> <p>20 witness and show their question-and-answer</p> <p>21 testimony. Meaning, like a picture of the witness</p> <p>22 that we have from a deposition or something and then</p> <p>23 the question-and-answer testimony.</p> <p>24 THE COURT: I think that is sufficiently</p> <p>25 similar to what actually happened as to not cause</p>	<p style="text-align: right;">Page 1930</p> <p>1 concerns in my mind.</p> <p>2 MR. HILL: I thought that would be the</p> <p>3 case. I just wanted to confirm.</p> <p>4 THE COURT: If you -- where do your</p> <p>5 pictures of witnesses come from? Like, are you</p> <p>6 pulling old, like, arrest photos or something? I</p> <p>7 have seen pictures get very interesting. So -- and</p> <p>8 that actually does make me want to ask.</p> <p>9 MR. HILL: Primarily, to the extent that</p> <p>10 they were deposed, they would come from --</p> <p>11 THE COURT: From video depositions, sure.</p> <p>12 MR. HILL: To the extent that they weren't</p> <p>13 deposed, if there is one in an exhibit somewhere,</p> <p>14 then we would pull it from there, an exhibit that</p> <p>15 has been admitted --</p> <p>16 THE COURT: So you are getting it from the</p> <p>17 case, not from searches of county jail records or</p> <p>18 something like that?</p> <p>19 I have seen -- I have seen some really</p> <p>20 interesting stuff before.</p> <p>21 MR. GREENFIELD: Hold on, your Honor.</p> <p>22 There is pretty wild pictures in this --</p> <p>23 in the evidence today, so I am slightly concerned</p> <p>24 because of that, the pictures that Mr. Hill --</p> <p>25 MR. HILL: I'm not going to be using it if</p>

<p style="text-align: right;">Page 1931</p> <p>1 somebody is wearing a hat or holding a sign or 2 something. 3 THE COURT: That's a good point. 4 MR. HILL: It's going to be just -- it's 5 going to be trying to show them who that person is. 6 THE COURT: A professional setting 7 photograph taken from evidence in this case. 8 MR. McKEEBY: Yes. And to that end, I 9 mean, if we do show an exhibit in a -- you know, 10 either in native format or in a PowerPoint, I mean, 11 my thought would be that, you know, you would affix 12 the exhibit number to the -- to the display so that 13 the parties know and the jury knows what we are -- 14 THE COURT: And I will say, I prefer that. 15 If someone doesn't do that, you have got to at least 16 tell everyone what exhibit you are talking about, 17 right? Out of fairness. Everyone has a right to 18 know. 19 And so if you can't technologically add 20 the label to it, then you at least need to talk 21 about it as soon as it comes up. Otherwise, I don't 22 know that it was admitted into evidence. When y'all 23 do that, then I usually cross check and make sure it 24 was in, right? Because I have got my list. And if 25 I can't cross check, then I'm going to stop you.</p>	<p style="text-align: right;">Page 1932</p> <p>1 Does that make sense? 2 Okay. Any other housekeeping things? 3 THE COURT: Okay. So Mr. Morris, you had 4 language. Is this in page 17ish, C-1? Or somewhere 5 else? 6 MR. MORRIS: It is under 3 -- the third 7 paragraph, an accommodation means, that paragraph. 8 THE COURT: Okay. I'm at, "An 9 accommodation means," which is for me on page 17, 10 but I don't know about anyone else. 11 MR. MORRIS: I would propose a reasonable 12 accommodation is one that eliminates or resolves the 13 conflict between the employee's religious belief or 14 practice or -- and a conflicting employment 15 requirement. 16 THE COURT: Okay. What is Carter's 17 position on that? New language or current language? 18 Or something else? 19 MR. GILLIAM: We prefer the current 20 language, not the proposed amended language. We 21 think that it is -- it is very legal, highly 22 technical, and may be confusing to the jury. We 23 think that the current language is -- clearly 24 represents what an accommodation is and does not 25 cause confusion for the jury.</p>
<p style="text-align: right;">Page 1933</p> <p>1 THE COURT: Understood. 2 I will overrule that request to change 3 that language. 4 MR. MORRIS: Your Honor, and while we are 5 here, something else just jumped out to me that is a 6 little confusing. 7 THE COURT: Sure. 8 MR. MORRIS: We refer to accommodation 9 repeatedly. I think it should be "reasonable 10 accommodation" or "reasonably accommodate," which 11 is, I think, consistent with what the law requires. 12 It is just a proper terminology. 13 THE COURT: I see your point. But I think 14 we also have reasonable for accommodation somewhere 15 else in the charge and I'm not sure we need to add 16 it every place. I appreciate the request. 17 I will overrule that. 18 Okay. Any other issues before we talk 19 questions? 20 MR. GILLIAM: None from the plaintiff, 21 your Honor. 22 MR. MATTHEWS: None from Southwest. 23 THE COURT: Okay. 24 Anything else from the Union or are we 25 ready to talk questions?</p>	<p style="text-align: right;">Page 1934</p> <p>1 MR. GREENFIELD: We are ready to talk 2 questions, your Honor. 3 THE COURT: Okay. So questions, we tried 4 to put in some sign-posting given that we broke some 5 of these questions out as to Southwest and Union, 6 because it is long now. We have got 34 pages of 7 questions. 8 So let's go to Question 1. 9 Any issues on Question 1? 10 MR. GREENFIELD: Yes, your Honor, I do. 11 From a global point, I would just, again, 12 request that -- object to the general verdict form 13 in lieu of the special verdict form that we 14 submitted to the Court. 15 Again, I believe the purpose of this is to 16 avoid confusion, appellate uncertainty, and the need 17 for additional proceedings. 18 I just, again, just seek that the special 19 instructions be included instead of the general. 20 And I would ask that the Court recognize 21 for us to -- our Exhibit 1 to our filing, as opposed 22 to me going through and reading off every single 23 special instruction that we have deemed. I would 24 seek to submit that in lieu of that. 25 THE COURT: Based on my discussion with</p>

<p style="text-align: right;">Page 1935</p> <p>1 Gilliam, I think that is the kind of circumstance 2 where we should file something and refer to it. 3 Is this -- I can't remember if it was by 4 email or filed on the docket. 5 Do you recall if it was? 6 MR. GREENFIELD: I filed it as an exhibit 7 to a motion, and then I filed it as an exhibit. And 8 then I circulated a separate Word document. 9 THE COURT: Okay. Do you recall what 10 exhibit number that was? 11 MR. GREENFIELD: Exhibit 1. 12 THE COURT: To docket number? 13 MR. GREENFIELD: Yes, I don't know. 14 THE COURT: How about his: Try to find 15 out before the end of our time, and then we will put 16 it in there. And then you have absolutely hit the 17 nail on the head, incorporated that document by 18 reference. But I would just like to get that docket 19 number in. I'm fine with you incorporating that by 20 reference. 21 I will say that I have read the document 22 you are referring to. I don't remember what docket 23 number it is. And I appreciate your request for a 24 special verdict form. 25 I will overrule it, but I do believe your</p>	<p style="text-align: right;">Page 1936</p> <p>1 argument to be preserved. I just hope we can get 2 that docket number on. 3 MR. GREENFIELD: Yes, your Honor. I will 4 search for that right after my next point, because I 5 have another issue on Question 1. 6 THE COURT: You may fire your other 7 question now. 8 MR. GREENFIELD: Yes, your Honor. 9 Just for preservation's sake, we would 10 seek the same language we sought previously for 11 Ms. Carter -- for the Question No. 1, that it should 12 read, "Has Plaintiff Carter proved that Audrey Stone 13 was acting exclusively/solely in her official 14 capacity" to include that language. 15 The rights of all employees at Southwest 16 Airlines are protected by multiple facets of 17 numerous statutes that prevent various forms of 18 harassment within the workforce, Title VII, FMLA, 19 ADA, et cetera. 20 Southwest Airlines, operating as a private 21 employer, an at-will employment state can terminate 22 their employees for good reason, bad reason, or no 23 reason at all, as long as it is not an illegal or 24 discriminatory reason. 25 Congress and the Courts have agreed to</p>
<p style="text-align: right;">Page 1937</p> <p>1 give private employers wide latitude, free of 2 interference, to make their own business decisions. 3 These business decisions, including setting their 4 own policies and procedures regarding matters such 5 as bullying and harassment in the work place. These 6 policies and procedures can always be more 7 protective of employee rights than federal 8 employment law. 9 But, nevertheless, Ms. Stone's decision to 10 turn in plaintiff Charlene Carter was -- if it was 11 in any way made to protect her rights as an 12 employee, she legally had the right to make that 13 report to Southwest Airlines. Otherwise, 14 Ms. Stone's rights as an employee would be 15 subservient to those of plaintiff's rights, to be 16 free from any alleged retaliation by the Union, to 17 which she no longer belonged. 18 Contiguously, if an agent of the Union 19 that exercises a scintilla of their protected rights 20 as an employee, the Union could -- 21 THE COURT: You need to slow down. We're 22 having a hard time grabbing your speed reading. 23 MR. GREENFIELD: Yes, your Honor. 24 And I'm sorry, Ms. Willis. Where did you 25 lose me?</p>	<p style="text-align: right;">Page 1938</p> <p>1 THE COURT: To which he no longer -- 2 retaliation by the union, to which he no longer 3 belonged. 4 MR. GREENFIELD: And I said, contiguously, 5 if an agent of the Union then exercises a scintilla 6 of their protected rights as an employee, the Union 7 could not possibly be held liable sans one 8 situation: The union agent was acting exclusively 9 or solely in their capacity as a union agent. 10 The decision must have been made 11 exclusively or solely in Ms. Stone's capacity as a 12 union president to bind the Union, or else it 13 requires all union agents to potentially relinquish 14 their own federally-protected rights. 15 Nevertheless, if the Court decides to 16 exclude that language, we urge the adoption of an 17 additional question, allowing the jury to consider 18 whether the speech, though protected in content and 19 made in Ms. Stone's official capacity, was also 20 sufficiently harassing or threatening that it 21 potentially altered the condition of Ms. Stone's 22 employment. 23 Sorry. I just wanted to get that on the 24 record, your Honor. That is why I was speaking so 25 quickly.</p>

<p style="text-align: right;">Page 1939</p> <p>1 THE COURT: I appreciate that, but 2 remember, this is the time to preserve, not the time 3 to persuade. 4 MR. GREENFIELD: Yes. 5 THE COURT: Okay. I understand your 6 argument, but I will overrule that request to have 7 exclusive language in Question 1. 8 Other issues with Question 1? 9 MR. MORRIS: Not from Southwest. 10 MR. GILLIAM: None from Carter. 11 THE COURT: All right. Question 2. 12 MR. GILLIAM: None from Carter. 13 MR. GREENFIELD: I'm sorry, your Honor, 14 just back to Question 1 real quick, we would seek 15 that it would be appropriate to include some sort of 16 additional language that says something along the 17 lines of, if no to this answer, if Ms. Stone was not 18 acting exclusively/solely in her capacity as union 19 president -- or sorry -- take out the language that 20 I was asking, just as written by -- as is, then no 21 more questions are required to be answered of -- 22 regarding liability on the Union. 23 If Ms. Stone -- it stops there for us, 24 essentially, if the answer is no. 25 THE COURT: I understand that. And I will</p>	<p style="text-align: right;">Page 1940</p> <p>1 reference back to my earlier conversation. I try, 2 to the extent possible, to pull out some of these 3 conditioning questions so that if they answer no, we 4 all know that the Union is done, right? And I can 5 certainly enter judgment to that effect. 6 If the Fifth Circuit finds out that their 7 answer to 1 was wrong, and they said they should 8 have answered 2, then they have an answer to 2 now, 9 right? 10 So I get your point. I'm not misled as to 11 what the effect of a "no" answer on Question 1 is, 12 but I'm trying to make sure that we don't have to 13 try this case three, four, or five times. 14 If we just -- you know, we got Question 1 15 wrong first; then later on next year, we got 16 Question 3 wrong. And then -- I would like this to 17 be the last time we have to try this case, even if 18 there is an incorrect jury answer. This lack of 19 conditioning for some of these questions may not 20 solve all of those problems. 21 Okay. So I get your request. I will 22 overrule it. 23 Any other questions on Question 1? 24 Okay. So now we are on to 2. 25 Any issues on 2?</p>
<p style="text-align: right;">Page 1941</p> <p>1 MR. GILLIAM: No issues from plaintiff. 2 MR. MORRIS: None from Southwest. 3 MR. GREENFIELD: Just a running objection 4 for the request to the special instruction, which I 5 will submit to the Court. And I will look for that 6 number right now. 7 THE COURT: That sounds great. I will 8 give you that request for a special instruction 9 running objection. 10 Okay. Question 3. 11 MR. GILLIAM: No objections from the 12 plaintiff. 13 MR. MORRIS: None from Southwest. 14 THE COURT: All right. Anything 15 union-wise on Question 3, other than the special 16 instruction running objection? 17 MR. GREENFIELD: One moment, your Honor. 18 I'm scrolling right now. 19 No, your Honor. Just the same special 20 instruction. 21 THE COURT: Okay. Question No. 4. 22 MR. GILLIAM: Your Honor, I would just 23 state our same objection for the record to the jury 24 charge that the -- this affirmative defense issue 25 shouldn't be here under NLRB v. Allied Aviation; but</p>	<p style="text-align: right;">Page 1942</p> <p>1 otherwise, no issue. 2 THE COURT: I understand that request. 3 I will overrule that. 4 Any other issues on 4? 5 MR. MORRIS: None from Southwest. 6 MR. GREENFIELD: None from us, your Honor, 7 other than the running objection. 8 THE COURT: Understood. 9 I will overrule that. 10 Okay. Question 5. 11 No objection from plaintiff. 12 MR. MORRIS: None from Southwest. 13 MR. GREENFIELD: Just the running 14 objection from the Union. 15 THE COURT: All right. I will overrule 16 that. 17 Question 6? 18 MR. GILLIAM: Your Honor, just reiterating 19 the same objection we had to Question 4 regarding 20 the Wright Line affirmative defense. We don't think 21 it should be part of the charge; otherwise, no issue 22 with Question 6. 23 THE COURT: I understand your Wright Line 24 objection. I will overrule that. 25 Any other issues on 6?</p>

<p style="text-align: right;">Page 1943</p> <p>1 MR. GREENFIELD: Yes. On Question No. 6, 2 the Union seeks the same similarly-situated, 3 non-Christian employees to be included in this 4 question. 5 THE COURT: Understood. 6 For consistency, I will overrule that. 7 Anything else on 6? 8 Okay. On to 7. 9 MR. GREENFIELD: I don't believe I had any 10 actually separation out on the accommodation case 11 claims, so I don't believe I have any. If I did, I 12 would preserve them with the same running objection. 13 THE COURT: So what is your request, 14 Mr. Greenfield? 15 MR. GREENFIELD: I don't know exactly, 16 your Honor. 17 THE COURT: Sure. That is fine. I will 18 let you gather it. 19 MR. GREENFIELD: I don't actually -- I 20 didn't change that, so none, your Honor. I do -- 21 would just, again, seek the inclusion of a separate 22 question on undue hardship, and that we seek to add 23 in that affirmative defense into the jury charge, 24 just for preservation's sake, your Honor. 25 THE COURT: Understood.</p>	<p style="text-align: right;">Page 1944</p> <p>1 I appreciate that. I will overrule that 2 on undue hardship for the Union. 3 Anything else on 7? 4 MR. GILLIAM: Nothing from plaintiff, your 5 Honor. 6 MR. MORRIS: Nothing from Southwest. 7 THE COURT: All right. 8 Question 8. 9 MR. MORRIS: Your Honor, just for 10 consistency between Questions 8 and 9, if you look 11 at the -- Question 8, the last part of that question 12 says "exercising her rights under the Railway Labor 13 Act." Question 9 says, "engaged in activity 14 protected by the Railway Labor Act." 15 We think the latter is the appropriate 16 phrase, and so that the end of that sentence from 17 question 9 should also be in question 8. 18 THE COURT: Understood. 19 Does Carter have a position on conforming 20 Question 8 more to Question 9, statement on engaging 21 in protected activity under the Railway Labor Act as 22 opposed to exercising rights under the Railway Labor 23 Act? 24 MR. GILLIAM: I think it should be engaged 25 in protected activity, engaged in activity protected</p>
<p style="text-align: right;">Page 1945</p> <p>1 by the Railway Labor Act. 2 THE COURT: I think that is a good change, 3 so let me make that and then I will flash my screen. 4 Okay. So here is how Question 8 is 5 reading now after that proposed change. 6 "Has Plaintiff Carter proved that 7 Defendant Southwest retaliated against Plaintiff 8 Carter for engaging in activity protected by the 9 Railway Act -- Railway Labor Act," which matches up 10 to Question 9. 11 MR. GILLIAM: That is right, your Honor. 12 No objection. 13 THE COURT: All right. So that was 14 Question 8. 15 Now, down to 9. 16 MR. GREENFIELD: And, your Honor, before 17 we move on to No. 9, it is Docket 333, Exhibit 1. 18 THE COURT: So Docket 333, Exhibit 1 is 19 your specific request for a special verdict as 20 opposed to a general verdict form? 21 MR. GREENFIELD: Yes, your Honor. 22 THE COURT: Okay. So I will let you 23 incorporate that by reference, then. 24 I am overruling your request for that 25 verdict form, but thank you for bringing up the</p>	<p style="text-align: right;">Page 1946</p> <p>1 docket number. 2 MR. GREENFIELD: Sure. 3 THE COURT: Okay. So we have moved on 4 from Question 8, we are on Question 9. 5 Any issues with 9? 6 MR. GILLIAM: I'm confused. I thought 7 that we -- I thought we solved this one already. 8 Something about the formatting I'm seeing on this 9 has me confused. 10 Nine, I think, would be our Wright Line 11 mixed-motive objection that I would just reiterate, 12 if I'm looking at the right sentence. I realize I 13 may have been looking at the wrong thing earlier 14 when I made that objection. 15 THE COURT: Sure. 16 MR. GILLIAM: The formatting is screwed up 17 on -- I was looking at it on my phone. 18 But yes, we would reassert our Wright Line 19 objection here for all of the reasons we stated 20 earlier. No other issues. 21 THE COURT: Understood. 22 I appreciate your request. I will 23 overrule that at this time. 24 Okay. Anything else on Question 9? 25 MR. GILLIAM: Nothing from Carter.</p>

<p style="text-align: right;">Page 1947</p> <p>1 MR. MORRIS: Nothing from Southwest.</p> <p>2 THE COURT: All right. How about Question</p> <p>3 10?</p> <p>4 MR. GILLIAM: No objections from Carter.</p> <p>5 MR. MORRIS: No objections from Southwest.</p> <p>6 THE COURT: All right.</p> <p>7 On to 11.</p> <p>8 MR. GILLIAM: I'm sorry, your Honor. We</p> <p>9 would reiterate our same motivating factor objection</p> <p>10 that we made earlier, that -- instead, that it</p> <p>11 should be stated that her sincerely-held religious</p> <p>12 observances, beliefs, or practices was a motivating</p> <p>13 factor in Southwest's decision to discharge Carter.</p> <p>14 THE COURT: I understand that objection.</p> <p>15 I will stick to the pattern language, but</p> <p>16 acknowledge that you may have an argument there, if</p> <p>17 anyone needs to take it up.</p> <p>18 Okay. Eleven.</p> <p>19 MR. MORRIS: Your Honor, this is sort of</p> <p>20 related to 11, which is the conflict question should</p> <p>21 precede Question 11, when it is a conflict between</p> <p>22 her religious beliefs or practices and the</p> <p>23 requirement of employment.</p> <p>24 THE COURT: What is your proposed</p> <p>25 question?</p>	<p style="text-align: right;">Page 1948</p> <p>1 MR. MORRIS: "Has Plaintiff Carter proved</p> <p>2 that she had a religious belief or practice that</p> <p>3 conflicted with the requirement of her employment</p> <p>4 with Defendant Southwest?"</p> <p>5 THE COURT: Understood.</p> <p>6 I will overrule that objection, but I</p> <p>7 appreciate the question.</p> <p>8 Okay. So now we are to Question 11.</p> <p>9 Carter had no objection.</p> <p>10 Is there a Southwest objection, other than</p> <p>11 the lack of a predicate on conflict?</p> <p>12 MR. MORRIS: I would just say "reasonably</p> <p>13 accommodate" there, again.</p> <p>14 THE COURT: I understand that, but I will</p> <p>15 stick to the current language. I will overrule that</p> <p>16 objection.</p> <p>17 Anything else on 11?</p> <p>18 All right. We are at 12. Your reasonable</p> <p>19 accommodation language came up here.</p> <p>20 Congratulations. It is in 12.</p> <p>21 MR. GILLIAM: Your Honor, our objection</p> <p>22 would be that it should state in accordance with</p> <p>23 Weber, has proved that any reasonable accommodation</p> <p>24 claim -- or any reasonable accommodation would have</p> <p>25 imposed an undue hardship on Defendant Southwest.</p>
<p style="text-align: right;">Page 1949</p> <p>1 THE COURT: So you are wanting to swap</p> <p>2 "each" with "any," is that the upshot of your</p> <p>3 change?</p> <p>4 MR. GILLIAM: Yes. And I don't know that</p> <p>5 a specific reasonable accommodation has specifically</p> <p>6 been claimed. In fact, that is one of our</p> <p>7 arguments, that they didn't initiate any</p> <p>8 accommodation efforts to suggest that there was one</p> <p>9 as claimed.</p> <p>10 THE COURT: So can you talk to me on why</p> <p>11 it should be "any" versus "each" accommodation?</p> <p>12 MR. GILLIAM: Yes. Under Weber, because</p> <p>13 they -- because Southwest never initiated any</p> <p>14 accommodation efforts, it -- it has to show that --</p> <p>15 it couldn't have undertaken any accommodation that</p> <p>16 would have -- that any accommodation they could have</p> <p>17 taken would have imposed the undue hardship, which I</p> <p>18 think is consistent with the wording in the charge</p> <p>19 itself.</p> <p>20 THE COURT: Can we pull that back up?</p> <p>21 So I have got at the bottom of my draft on</p> <p>22 page 17, I have a sentence saying, "Defendant</p> <p>23 Southwest must establish by a preponderance of the</p> <p>24 evidence that it did not accommodate Plaintiff</p> <p>25 Carter because any accommodation would have imposed</p>	<p style="text-align: right;">Page 1950</p> <p>1 an undue hardship on Defendant Southwest."</p> <p>2 MR. GILLIAM: You could use the word "any"</p> <p>3 in the question, too.</p> <p>4 THE COURT: So I would like to hear</p> <p>5 Southwest's thoughts on this one.</p> <p>6 MR. MORRIS: I'm not sure -- I'm not sure,</p> <p>7 frankly, I understand the --</p> <p>8 THE COURT: Sure. So it's fighting over</p> <p>9 one word, "any" versus "each." Right now, we talk</p> <p>10 about in the question "each accommodation." And the</p> <p>11 question is, do we make the change to any</p> <p>12 accommodation.</p> <p>13 Their argument is that they never</p> <p>14 requested an accommodation because Carter was fired</p> <p>15 before she could make such a request. I guess the</p> <p>16 thought on my end is, the accommodations were never</p> <p>17 really discussed by either side.</p> <p>18 And so I think it makes sense -- it</p> <p>19 doesn't say any accommodation requested by Carter or</p> <p>20 any one thought of by Southwest. It just refers to</p> <p>21 an accommodation, whoever thought of it.</p> <p>22 I think it makes to sense any because,</p> <p>23 one, that is what we say in the charge; but two, if</p> <p>24 everybody is saying no specific accommodation was</p> <p>25 discussed, I don't want the jury penalizing other</p>

<p style="text-align: right;">Page 1951</p> <p>1 side, Southwest or Carter, if there is not a 2 specific accommodation. And they come back and say 3 each, what were they? We would come back and say, I 4 don't know.</p> <p>5 So my thought would be to say "any" to 6 conform to the charge and because we don't have a 7 specific accommodation at the time that either side, 8 Southwest or Union or Carter, had discussed. But 9 that is my leaning without knowing more about any 10 versus each.</p> <p>11 MR. GILLIAM: The other part of the 12 objection is to the phrase "claimed in this case," 13 because I think --</p> <p>14 MR. MORRIS: Well, I think wouldn't each 15 reasonable accommodation or each accommodation 16 incorporate all? Because there is no specific -- 17 there is none enumerated here and there's none that 18 have been raised.</p> <p>19 THE COURT: Right.</p> <p>20 But the question is, does it incorporate 21 all, if any?</p> <p>22 MR. MORRIS: Right.</p> <p>23 THE COURT: Any presupposes if any -- each 24 presupposes there is more than one, right? And so 25 we have accommodations that have been discussed at</p>	<p style="text-align: right;">Page 1952</p> <p>1 trial, like blocking, ignoring on the part of the 2 Union. Or, you know, on the part of Southwest, 3 disclaimer on the Facebook page or pulling down the 4 nexus photographs.</p> <p>5 So we have multiples that were discussed 6 at trial. But I think this almost anchors it back 7 at the time, right? At the time of the termination. 8 What happened at the time of the termination, all 9 sides were talking about none.</p> <p>10 And so "each" presupposes two or more. 11 "Any" supposes zero or more. So I don't know. I 12 think "any" more accurately matches the factual 13 circumstance at the time, even though at trial 14 multiple accommodations had been discussed for 15 Southwest and the Union.</p> <p>16 MR. GILLIAM: And consistent with what you 17 said, I think that "claimed in this case" should be 18 omitted as well.</p> <p>19 THE COURT: So you are saying "any 20 reasonable accommodation claimed in this case"? 21 MR. GILLIAM: I think it is consistent 22 with the jury charge language, too.</p> <p>23 THE COURT: So what I plan on doing is, 24 any instead of "each," omitting claims, but not 25 saying "in this case." I know that is splitting</p>
<p style="text-align: right;">Page 1953</p> <p>1 hairs, but "in this case" can include in this trial, 2 right? Or earlier factually on.</p> <p>3 So I would say, "Do you find the Defendant 4 Southwest has proved that any reasonable 5 accommodation in this case would have imposed an 6 undue hardship on Defendant Southwest?"</p> <p>7 Does Southwest want to object to that 8 language or you object keeping "in this case"? 9 MR. GILLIAM: We still object to "in this 10 case." Again, you know, our position is that when 11 they repudiate all efforts to accommodate, they have 12 to show that any and every possible accommodation 13 would have imposed an undue hardship.</p> <p>14 THE COURT: I understand that argument. 15 And I will overrule that request and keep in, "in 16 this case."</p> <p>17 MR. MORRIS: Your Honor, I think we are 18 okay with that language, except I think the concept 19 of "reasonable" should be removed in this case -- in 20 this instance because --</p> <p>21 THE COURT: Question 11?</p> <p>22 MR. MORRIS: Well, right. And because, 23 you know, a reasonable accommodation is one that 24 eliminates the conflict between the religious 25 practice and the employment requirement.</p>	<p style="text-align: right;">Page 1954</p> <p>1 And just to use some of the examples they 2 just raised, blocking Ms. -- you know blocking -- 3 Ms. Stone blocking Ms. Carter or removing a nexus 4 photograph doesn't do -- has nothing to do with the 5 conflict between Ms. Carter's stated religious 6 belief or practice, i.e. sharing her view that 7 abortion is bad and the requirement of her job.</p> <p>8 So I don't really concede that any 9 reasonable accommodation has been raised or at 10 issue, or anything like that.</p> <p>11 THE COURT: So you would cut the 12 "reasonable" modifier?</p> <p>13 MR. MORRIS: Correct.</p> <p>14 THE COURT: And I think out of consistency 15 with 11, that makes sense to me. Bring in the 16 concept now -- I think we should either bring in the 17 concept in 11 or leave it out in both for 18 consistency's sake.</p> <p>19 We have charged the reasonableness of 20 accommodation. They know it has got to be 21 reasonable. Either we have got to put it in, in 22 both places or pull it out. I would be inclined to 23 deleting words instead of adding them at this point, 24 given that I will have to read each word tomorrow. 25 But any argument from Southwest on</p>

<p style="text-align: right;">Page 1955</p> <p>1 "reasonable" in or out on Question 12?</p> <p>2 MR. GILLIAM: I think it is fine with it</p> <p>3 being in. I just want to clarify our position is</p> <p>4 that "any" doesn't mean just one, it means "every."</p> <p>5 Again, based on Weber and Hacienda Hotels, a Ninth</p> <p>6 Circuit case.</p> <p>7 THE COURT: Right. And I'm just trying to</p> <p>8 make sure that the jury would read it that way.</p> <p>9 I understand that argument, right? If</p> <p>10 there is one accommodation, that would have been an</p> <p>11 undue hardship. But another accommodation, that</p> <p>12 wouldn't be, then they can't prove undue hardship,</p> <p>13 right? Because one accommodation would not have</p> <p>14 been an undue hardship. So I'm trying to make sure</p> <p>15 that the working is sufficiently clear.</p> <p>16 Now that I've changed "any," I'm trying to</p> <p>17 make sure that my "any" has not allowed the jury to</p> <p>18 think one is an undue hardship, the other is not an</p> <p>19 undue hardship.</p> <p>20 Well, the first thing I'm going to do is</p> <p>21 pull out "reasonable" to be consistent with 11, and</p> <p>22 then I'm going to look at the sentence. I will show</p> <p>23 you my current draft of what I'm looking at.</p> <p>24 MR. GILLIAM: I would argue it proves any</p> <p>25 possible combinations.</p>	<p style="text-align: right;">Page 1956</p> <p>1 THE COURT: I would be more inclined to</p> <p>2 say "any and all accommodations." Does that make</p> <p>3 sense? Because possible now seems like it is</p> <p>4 changing a reasonable accommodation standard to</p> <p>5 something different. But "any and all" presupposes</p> <p>6 that the number is zero to whatever the maximum</p> <p>7 number of accommodations would have been, that all</p> <p>8 of those are an undue hardship.</p> <p>9 MR. GILLIAM: "Any and all," I think makes</p> <p>10 sense.</p> <p>11 THE COURT: Okay. Let me put it in here,</p> <p>12 we will see how it reads.</p> <p>13 Am I grammatically incorrect on any and</p> <p>14 all accommodation, accommodations? I don't know if</p> <p>15 I'm violating the rules of grammar.</p> <p>16 All right. I think this satisfies the</p> <p>17 concerns on bringing out "reasonable," but having</p> <p>18 whatever accommodations would have been in play in</p> <p>19 this case be undue as the proper standard.</p> <p>20 So now with this language, y'all can</p> <p>21 object to it. Does anyone have an objection to it?</p> <p>22 Is everyone glazed over? You can't object to it?</p> <p>23 MR. GILLIAM: I have already stated -- I</p> <p>24 guess I will reiterate it, just we would object to</p> <p>25 the inclusion of "in this case."</p>
<p style="text-align: right;">Page 1957</p> <p>1 THE COURT: Right. I have still kept that</p> <p>2 in.</p> <p>3 MR. GILLIAM: But no other objections.</p> <p>4 THE COURT: Okay. Any objection to "any</p> <p>5 and all accommodations"?</p> <p>6 MR. MORRIS: I guess I will just state for</p> <p>7 the record I think that there is no evidence of any</p> <p>8 accommodations that have been really proposed or at</p> <p>9 issue, but I think that is it.</p> <p>10 THE COURT: Understood.</p> <p>11 So I will overrule that objection, keep</p> <p>12 Question 12 in its current -- in its modified form.</p> <p>13 Okay. So next question, 13, lost wages.</p> <p>14 On Local 556?</p> <p>15 MR. GREENFIELD: No objection, your Honor.</p> <p>16 THE COURT: Anything from Carter on</p> <p>17 Question 13?</p> <p>18 MR. GILLIAM: No, your Honor.</p> <p>19 MR. MORRIS: Your Honor, just one thing</p> <p>20 from Southwest.</p> <p>21 THE COURT: Yes.</p> <p>22 MR. MORRIS: And I sort of apologize a</p> <p>23 little bit, because I did request that these be</p> <p>24 broken up, and I think that is good.</p> <p>25 But just the way the damages questions,</p>	<p style="text-align: right;">Page 1958</p> <p>1 with respect to Local 556 and Southwest are</p> <p>2 worded -- you know, for example, if you look at the</p> <p>3 lost wages sustained between these dates, you know,</p> <p>4 I think the jury is probably going to look at that,</p> <p>5 and if they were to find one or both of us liable,</p> <p>6 they would put the same amount for both people</p> <p>7 there, and then it may look like double damages,</p> <p>8 essentially.</p> <p>9 THE COURT: I'm glad you brought this up.</p> <p>10 So yes. And we were having this</p> <p>11 discussion back in chambers.</p> <p>12 What we need to make sure is, in</p> <p>13 post-verdict briefing, we make sure there is no</p> <p>14 double recovery, right?</p> <p>15 I don't know -- I don't know how to do</p> <p>16 that other than hopefully the number is the same,</p> <p>17 right? If it is different numbers, then we are</p> <p>18 going to have an issue.</p> <p>19 But presumably both numbers would be the</p> <p>20 same, or nothing, right? And if they are the same</p> <p>21 number, then it is capped at that number. Let's say</p> <p>22 it is \$10,000, right? And the answer is \$10,000 for</p> <p>23 both Union and Southwest. Then the recovery is</p> <p>24 \$10,000. It can't be a double recovery because 20</p> <p>25 would be double, right? In my mind?</p>

<p style="text-align: right;">Page 1959</p> <p>1 The question is, if the number is 2 different, you know, if they say 8,000 for Southwest 3 and 2,000 for the Union, I'm not sure how they would 4 have gotten there and I'm not sure what to do about 5 it, right? 6 So I have thought this is the best we can 7 do, knowing that I will have to avoid a double 8 recovery on the back end. But I'm trying to figure 9 out if they can engineer a result that none of us 10 can figure out how they got there and how do undo 11 it. 12 Any bright ideas? I see the value in 13 breaking these things out, right? There could be a 14 recovery just from the Union, Southwest and not the 15 Union, or a recovery just from the Union and not 16 Southwest. 17 MR. McKEEBY: No bright ideas, just more 18 problems in the sense that, even if they do put one 19 number, then I guess there is a question of which 20 defendant pays. 21 THE COURT: Right. It is not tortfeasors, 22 but we would be talking joint and several liability, 23 if this were a tort case, right? And what is the 24 total recovery? Is it 10,000 or is it 20,000? 25 And in my view, if this were a tort case,</p>	<p style="text-align: right;">Page 1960</p> <p>1 it would a \$10,000 recovery, with joint and several 2 liability. 3 If they both have been found liable, then 4 I think there can be a judgment. But then it would 5 be my duty to make sure there is not a double 6 recovery and a double satisfaction. 7 So in my view, I think the best we can do 8 is all know that there is the potential for an odd 9 result here, hope that the dollar signs are 10 consistent, matching up to the liability questions, 11 right? And then make sure that we avoid the double 12 recovery in post-verdict machinations. 13 Or we can go back to one damages question, 14 but then we have got other problems that we create 15 by one damages question to defendants. 16 MR. GREENFIELD: Would you entertain the 17 idea of some and give some -- and again, problems 18 not solutions? So I apologize. Some sort of 19 apportionment footnote question in there, if 20 you do -- you know, or maybe on the back end of all 21 the damage questions, if you found that both 22 Southwest and the Union are liable for the 23 discharge, and you have asserted damage to both, 24 which -- how much do you assert, you know, 25 which apportion -- you know, something -- I don't</p>
<p style="text-align: right;">Page 1961</p> <p>1 know. 2 I'm spit-balling here, but just something 3 to potentially maybe on the back end and parse it 4 out. 5 THE COURT: And I think that would work, 6 but only if we wrapped it down into one damage 7 question. And if we've found liability for both and 8 one amount of damages, then what is a proportionate 9 responsibility, right? 10 But I don't even know that this can be a 11 proportionate responsibility case, right? I almost 12 think in a case like this -- like, let's say that it 13 is \$10,000 each. Unless I'm missing something, in a 14 case like this, she would have the ability to get a 15 judgment, \$10,000, but then only get one 16 satisfaction, right? 17 And so the first one to pay up is the 18 first one to pay up. And so it is actually an 19 enforcement of the judgment problem, not even a 20 judgment in how it reads problem, right? 21 I would know, I can see it is 20 grand. 22 But it is almost an enforcement of the judgment 23 problem. 24 So the problem -- so while I like your 25 idea, I think I can't impose a proportionate</p>	<p style="text-align: right;">Page 1962</p> <p>1 responsibility context in a statutory violation case 2 that is not a negligence case with a proportionate 3 responsibility-staked overlay on it. 4 So I think I have got to give her a full 5 satisfaction, potentially from each defendant who 6 they found liable, up to the level of damages that 7 they found them responsible for. But she can only 8 ever get one complete satisfaction, even if there 9 are two judgments. 10 MR. GREENFIELD: Thank you. 11 THE COURT: Does anyone want to take issue 12 with my hunch here? 13 MR. PRYOR: I just -- no, I take issue 14 with the number used, but we agree with the 15 analysis. 16 THE COURT: I knew you would, Pryor. 17 But, I mean, it would be all easier if 18 this were a tort case, right? Because then we would 19 just have one damages question and a proportionate 20 responsibility and we would know exactly how to do 21 it. But a multi-defendant statutory damages case is 22 a different animal. 23 I think we have done it as best as we can. 24 I think we all know that we have a double recovery 25 issue waiting for us at the end of the day, assuming</p>

<p style="text-align: right;">Page 1963</p> <p>1 that there is liability for both and there are 2 damages for both. 3 And that we may need to talk about this, 4 if there is a different calculation for each of the 5 two defendants. But it may actually be fine because 6 maybe then that is what the judgment looks like for 7 each defendant. We just have to figure out what the 8 dollar amount of the double recovery would mean. 9 MR. MORRIS: Your Honor, just thinking out 10 loud here a little bit is, if there were an 11 apportionment question there, then we would have the 12 information from the jury -- and maybe it becomes 13 unnecessary at some point, but at least we have it, 14 if it becomes necessary or relevant for some 15 question of apportionment or something. 16 MR. HILL: What? How would that come into 17 play? 18 THE COURT: If they picked different 19 numbers? If they found them both liable but said 20 Southwest was 8,000 and the Union, 6,000? 21 I don't know why they would do that. I 22 can't think of a good reason why they would pick 23 different numbers, as we sit here today. 24 All right. The best I can do is what we 25 have done so far, and then see what happens and hope</p>	<p style="text-align: right;">Page 1964</p> <p>1 that they get consistent numbers, right? And if 2 they get consistent numbers, we can figure out 3 avoiding a double recovery on the back end. If they 4 get inconsistent numbers, then I may not release 5 them immediately, but I may send them back to the 6 jury room and we figure if we need to ask them a 7 follow-up question. 8 So I'm not saying we will never ask that, 9 but hopefully we won't need to. 10 MR. PRYOR: I guess I'm misunderstanding 11 what -- I thought you were going to submit one 12 damage question. If you submit two, I think it is 13 going to be very confusing for the jury for the very 14 reason you are stating. 15 Why are we stating -- it is the same 16 damage. It is the liability question is going to 17 determine who is responsible for the damage. And if 18 it is both, it is just as you have stated. But to 19 give two -- I have had this happen before. These 20 two damage questions, the jury ends up fighting 21 over, trying to split it between the two, and that 22 is not their issue, some thinking it is a double 23 recovery and they cut in half. 24 And then if they don't find liability for 25 both, she doesn't get both. I think it is -- if</p>
<p style="text-align: right;">Page 1965</p> <p>1 that is what you are doing, I don't know if we said 2 we don't object. We do. 3 THE COURT: Understood. 4 Okay. So now we are back to the question 5 of do we lump it back into one damage question, and 6 then we use the liability questions to determine who 7 owes that amount of money. 8 If both are liable, then both owe that 9 amount of money, if those types of damages are 10 recoverable. I know you've got your lost pay 11 argument for the Union -- sorry -- front pay for the 12 Union. 13 But we break that out, right? So even if 14 there is a category that we treat differently, if 15 the Union is off for front pay, then we could still 16 figure out because there is a separate front pay 17 question. 18 So the question is now, are we back to one 19 damages question that doesn't identify which 20 defendant but which type of damages? 21 MR. GREENFIELD: We contend that the two 22 damages question is still better than the joint 23 damage question, but -- it may not be perfect, but I 24 think it is closer to the right direction to where 25 we want to be.</p>	<p style="text-align: right;">Page 1966</p> <p>1 MR. MORRIS: Southwest agrees. 2 THE COURT: Agrees on two, instead of one? 3 MR. MORRIS: Yes. 4 THE COURT: So I think I may have talked 5 myself out of it though, now. 6 Yes. Looking at all of the types of 7 damage questions, my current thinking is the only 8 way to avoid the problem of the jury's inconsistent 9 answer on Southwest and the Union owing different 10 amounts of money for the same types of damages is to 11 send one damage question without identifying a 12 defendant and using the liability question to 13 determine if those damages are awardable against 14 that defendant. 15 MR. GREENFIELD: And I would contend that 16 that has greater risk of confusion and prejudice by 17 lumping them together, as opposed to splitting them 18 apart and potentially dealing with this other issue. 19 THE COURT: So I see your point, but I'm 20 not seeing how it would actually play it. Like, I 21 see how it plays out in the other context. They 22 start thinking who was more at fault, right? They 23 start implying a proportion of responsibility 24 context. 25 But they can't do that if it is one</p>

<p style="text-align: right;">Page 1967</p> <p>1 question. If they found someone not liable, then 2 they are not liable. And whatever amount of damages 3 it is, they are not on the hook for. 4 MR. GREENFIELD: I actually think that it 5 is --there is a perfect example, and we can just 6 look at back pay. 7 We both could be found liable for the 8 termination under any one of the -- any number of 9 the statutes. 10 The jury could come back and say, yes, and 11 we, you know, tip the cap here -- you probably 12 understand that we will probably argue this -- but 13 that then we are not actually responsible for any of 14 the back pay damages. We are not her employer, we 15 didn't cause -- we fought to get her job back. 16 So even though we are liable, our back pay 17 should be zero. And if they are lumped together, 18 I'm going to be stuck with an argument about 19 splitting it with them and I don't want to do that. 20 MR. PRYOR: If, as a matter of law, they 21 are not responsible for the back pay, then you form 22 a judgment accordingly. 23 MR. GREENFIELD: If you would like to 24 stipulate that we are not possible for back pay, I 25 would be happy to go with that.</p>	<p style="text-align: right;">Page 1968</p> <p>1 MR. PRYOR: Well, I'm not going to 2 stipulate -- what? No. The Court can ferret that 3 out. 4 THE COURT: I think I can ferret that out 5 in post-verdict briefing, right? If there is, as a 6 matter of law, if you are not on the hook for back 7 pay. 8 The question would be if there is some 9 sort of factual basis, not as a matter-of-law point, 10 the jury could find they are not on the hook for 11 back pay. 12 MR. GREENFIELD: And I'm not arguing from 13 a matter-of-law point. I'm arguing from a factual 14 point. And so I think if they are lumped back 15 together, then we absolutely have to have some sort 16 of apportionment because I think a jury could easily 17 find if we are both liable, for example, that the 18 Union is X, could potentially be much less. 19 Because, again, the different sort of 20 situation that we are in, that we actually -- and we 21 would argue -- even fought to get her her job back. 22 And ultimately, the decision was made by Southwest 23 Airlines to terminate her employment. 24 So if they are lumped together, then I 25 absolutely think we need some sort of apportionment</p>
<p style="text-align: right;">Page 1969</p> <p>1 question. But I think the better way is to have 2 them split apart. 3 MR. PRYOR: I don't see it. I don't 4 understand that argument. 5 MR. HILL: It's like a joint-employer 6 case, where you get a joint and several judgment 7 from joint employers. 8 MR. GREENFIELD: We are not joint 9 employers. 10 MR. HILL: Well, that's fine, but I'm 11 using my analogy. 12 THE COURT: Well, and so what I will say 13 is, there is a universe in which the jury could say 14 the Union shouldn't have turned in her; however, 15 Southwest Airlines shouldn't have fired her, and so 16 the Union shouldn't be on the hook for her back pay, 17 right? Like, the Union should be on the hook for 18 some damages, but not the full extent of the back 19 pay. This is -- so -- 20 MR. PRYOR: Okay. I'm having 21 difficulties -- but I guess if you submit a question 22 like that to the jury. But, okay. I mean, I give 23 up. I don't know what to do. 24 THE COURT: I think we all give up at this 25 point.</p>	<p style="text-align: right;">Page 1970</p> <p>1 MR. PRYOR: There has got to be a way. 2 But submitting two damage questions, 3 unless you put something in there telling the jury 4 there is no double recovery, don't think about your 5 answers to -- I mean, I don't know. 6 Otherwise, it is going to -- I know two 7 damage questions will create confusion. This other 8 hypothetical issue, I -- it seems odd that a jury 9 could consistently find them liable for getting her 10 fired, but somehow think they are not liable for 11 back pay and Southwest is, as opposed to joint and 12 several. 13 It just seems like that is an issue that 14 the Court would ferret out and not the jury, but -- 15 THE COURT: So now what I'm thinking 16 about, Mr. Pryor, is two questions, but actually 17 adding in the cautionary language you are flagging, 18 which is something along the lines of, the jury is 19 to award the full measure of damages it finds 20 attributable to each defendant. The Court will take 21 separate action to avoid any double recovery. 22 MR. PRYOR: If there is really that 23 concern, I guess so. 24 MR. HILL: So you still have the problem 25 of potentially inconsistent verdicts.</p>

<p style="text-align: right;">Page 1971</p> <p>1 And because there is one set of damages</p> <p>2 that is caused by the termination, regardless of who</p> <p>3 did it, who caused it. If the Union caused it, she</p> <p>4 still got terminated and the pay that she lost</p> <p>5 between March 14th, 2017 and the date of trial is</p> <p>6 the same, March 14th to the date of trial, that she</p> <p>7 would have lost if Southwest had fired her. I mean,</p> <p>8 it the same quantum. Having two questions just --</p> <p>9 THE COURT: I get your point, but I'm not</p> <p>10 necessarily in agreement with it. The jury could</p> <p>11 say that Southwest is liable for the termination and</p> <p>12 the Union is liable for its breach of duty of fair</p> <p>13 representation. But there is no further liability,</p> <p>14 and that the Union's damages are less than</p> <p>15 Southwest's damages.</p> <p>16 MR. PRYOR: Okay. If it is going to be,</p> <p>17 you have to have two.</p> <p>18 THE COURT: So in that case, if they</p> <p>19 award, you know, 8 grand against Southwest and 6</p> <p>20 against the Union, then we would have judgments that</p> <p>21 say 8 and 6. But I would know that her recovery</p> <p>22 can't exceed 8. Does that make sense?</p> <p>23 MR. PRYOR: So if they are going to be</p> <p>24 two, you will put the language in that says don't</p> <p>25 worry about -- give the full measure of damages each</p>	<p style="text-align: right;">Page 1972</p> <p>1 time and the Court will ensure -- now, they would be</p> <p>2 worried about double recovery.</p> <p>3 THE COURT: I agree with you, Mr. Pryor.</p> <p>4 MR. PRYOR: And so that is actually the</p> <p>5 way I would say it, the Court will ferret this out</p> <p>6 and not permit a double recovery or something.</p> <p>7 THE COURT: Okay. So give me 30 seconds.</p> <p>8 I'm going to draft some language, and then I will</p> <p>9 show it on the screen.</p> <p>10 Okay. So the language I have proposed is</p> <p>11 right under the questions about damages header:</p> <p>12 "The jury should award whatever recoverable damages</p> <p>13 it finds that Plaintiff Carter proved each defendant</p> <p>14 caused. The Court will ensure that it avoids giving</p> <p>15 Plaintiff Carter more than a full recovery of the</p> <p>16 damages the jury finds that she proved."</p> <p>17 I can't say "double recovery," because it</p> <p>18 could be 1.3, 1.8. So it is the one satisfaction</p> <p>19 rule is really what we are talking about, so --</p> <p>20 MR. PRYOR: And I don't guess you can put</p> <p>21 in, should the jury award damages in regard to</p> <p>22 Southwest Airlines, so that they understand -- and</p> <p>23 although maybe that same language in the Southwest</p> <p>24 Airlines --</p> <p>25 THE COURT: Well, should I say, should the</p>
<p style="text-align: right;">Page 1973</p> <p>1 jury award damages as to both defendants, the Court</p> <p>2 will ensure --</p> <p>3 MR. PRYOR: Yes. Yes, that would be</p> <p>4 great.</p> <p>5 THE COURT: I think that is the best we</p> <p>6 can do, is two separate questions with the caveat.</p> <p>7 And then if we have to sort out</p> <p>8 something -- you know, after we get a jury verdict,</p> <p>9 everyone be looking out if there is something really</p> <p>10 squirrely and we need to send them back for another</p> <p>11 question.</p> <p>12 Normally, I accept the verdict and cut</p> <p>13 them loose. But we should all be on the lookout if</p> <p>14 we need to not cut them loose for some kind of</p> <p>15 inconsistent jury answer that we can't resolve as a</p> <p>16 matter of law on the back end. Does that make</p> <p>17 sense?</p> <p>18 MR. PRYOR: And where are you going to be</p> <p>19 on Thursday?</p> <p>20 THE COURT: I will tell Judge Kinkeade,</p> <p>21 look, man.</p> <p>22 So does anyone want to object to the</p> <p>23 overall structure about questions about damages with</p> <p>24 the preamble language I have?</p> <p>25 MR. GILLIAM: No objection from plaintiff.</p>	<p style="text-align: right;">Page 1974</p> <p>1 THE COURT: We are just talking about the</p> <p>2 preamble at this point and separate questions for</p> <p>3 defendants. I know y'all wanted separate questions.</p> <p>4 Is the preamble good enough?</p> <p>5 MR. MORRIS: Yes, your Honor. I think</p> <p>6 that works.</p> <p>7 THE COURT: He said cautiously. We will</p> <p>8 see how this plays out in the next few days.</p> <p>9 Any issue with the language that you want</p> <p>10 to take, Mr. Greenfield?</p> <p>11 MR. GREENFIELD: No, your Honor.</p> <p>12 THE COURT: Okay. And let's talk about</p> <p>13 Question 13. Now we are back to 13.</p> <p>14 MR. GREENFIELD: Just to the question in</p> <p>15 and of itself for lost wages and damages against</p> <p>16 back pay, I think there is insufficient evidence</p> <p>17 that shows that we caused the termination of</p> <p>18 Ms. Carter, and I believe the question itself to be</p> <p>19 inappropriate.</p> <p>20 THE COURT: Understood.</p> <p>21 I will overrule that objection.</p> <p>22 MR. GREENFIELD: Yes, your Honor.</p> <p>23 MR. GILLIAM: Plaintiff has no objection.</p> <p>24 THE COURT: Okay. So moving on to</p> <p>25 Question 14.</p>

<p style="text-align: right;">Page 1975</p> <p>1 MR. GREENFIELD: No objections, your 2 Honor. 3 THE COURT: Anything from Carter on 4 Question 14? 5 MR. GILLIAM: No objection. 6 MR. MORRIS: Nothing with Southwest. 7 THE COURT: Okay. 15, punitives. 8 Local 556? 9 MR. GREENFIELD: Yes, your Honor. We just 10 renew our objection regarding punitives that we made 11 earlier. 12 THE COURT: I understand that and overrule 13 it. 14 Any other objections on Question 15? 15 MR. GILLIAM: No objections from Carter. 16 THE COURT: All right. 16, the sum of 17 money. 18 Same objection to 16 as 15, 19 Mr. Greenfield, on punitives? It's just the dollar 20 amount on punitives? 21 MR. GREENFIELD: Oh, yes. Yes, your 22 Honor. I was just trying to follow -- I was 23 thinking it was the same thing, so I'm trying to -- 24 THE COURT: Yes, sir. Okay. So I will 25 overrule that objection on your punitives argument</p>	<p style="text-align: right;">Page 1976</p> <p>1 on 16. 2 MR. GILLIAM: No objection from Carter. 3 THE COURT: All right. 4 So that should take us to 17. Nominal 5 damages against 556 for Title VII claims. 6 MR. GREENFIELD: No objection, your Honor. 7 MR. GILLIAM: No objection. 8 MR. GREENFIELD: No objection to 18. 9 THE COURT: 18. Yes. We all know they 10 are supposed to write a dollar. If they write 11 anything else, I'm supposed to reform it, right? 12 Everyone is sort of on the same page? 13 I've seen a jury award 10 in state court 14 before, and that had to be reformed to a dollar. 15 MR. GILLIAM: No objection from Carter. 16 THE COURT: 19. Nominals for 556 for fair 17 representation. Any issue with Question 19? 18 MR. GREENFIELD: Your Honor, I would be 19 happy to skip all of the way down through 22 and say 20 no objections. I think they are all nominal damage 21 questions and we have no objection to them. 22 THE COURT: Understood. 23 Any issue before we get to 22 for Carter? 24 MR. GILLIAM: No. 25 THE COURT: So then 22 is the last</p>
<p style="text-align: right;">Page 1977</p> <p>1 nominals question. 2 So 23, is that where we are at now? 3 MR. GREENFIELD: Yes, your Honor. 4 THE COURT: So front pay against Local 5 556. 6 MR. GREENFIELD: We would like to renew 7 our objections regarding front pay being 8 inapplicable to the Union. And we believe it is a 9 question for your Honor to decide, and there should 10 be some sort of jury advisory language, if it is 11 included. 12 THE COURT: Understood. 13 Do we need -- so on front pay, I don't 14 have a problem putting in more advisory language in 15 here. I know I have put it in the instructions that 16 it is advisory. 17 Any issue with me putting the disclaimer 18 in one more time here, that this is an advisory 19 question? 20 MR. GILLIAM: Yes. That's fine, your 21 Honor. We have no objection. 22 THE COURT: So I just said, "This is a 23 question for the Court on which the Court seeks the 24 jury's advice." 25 MR. GREENFIELD: Perfect. Thank you.</p>	<p style="text-align: right;">Page 1978</p> <p>1 THE COURT: Any issue with that from 2 Carter? 3 MR. GILLIAM: No, your Honor. No 4 objection. 5 MR. HILL: I'd probably change the 6 spelling of "advice." 7 THE COURT: Advise and consent. Advice. 8 I got it wrong. Thank you. It is with a "c" now. 9 Okay. So 23, we've added the disclaimer 10 in the front. 11 How about 24? Now we are at Southwest 12 damages questions. 13 MR. MORRIS: I think we are good, your 14 Honor. 15 MR. GILLIAM: No objection. 16 THE COURT: Okay. 25. Non-economic, 17 Southwest, Title VII. 18 MR. MORRIS: Yes, your Honor. Just at the 19 end of the first question, it refers to the various 20 categories. And it says, "and other non-economic 21 losses, if any." I think that deviates from the 22 pattern instruction and should not be included. 23 THE COURT: All right. So it's that 24 phrase "and other non-economic losses, if any"? 25 MR. MORRIS: Yes.</p>

<p style="text-align: right;">Page 1979</p> <p>1 THE COURT: Are there any other types of</p> <p>2 non-economic losses?</p> <p>3 MR. MORRIS: Excuse me?</p> <p>4 THE COURT: Even separate and apart from</p> <p>5 the patterns, are there any other types of</p> <p>6 non-economic losses? I couldn't think of any in the</p> <p>7 abstract, much less in the specific case.</p> <p>8 So if anyone can fit something into that</p> <p>9 category, I can see a reason to keep it. But if no</p> <p>10 one can fit anything from this case into that</p> <p>11 category, I'm not sure it is doing any work.</p> <p>12 MR. GREENFIELD: Your Honor, we would just</p> <p>13 ask that if you are going to the change the</p> <p>14 instruction on that, then do it for us just so we</p> <p>15 have some cohesiveness.</p> <p>16 MR. MORRIS: And that repeats in the</p> <p>17 Question 1 and Question 2 subparts, so I would just</p> <p>18 ask that it be removed there as well.</p> <p>19 THE COURT: Sure. So is Carter aware of</p> <p>20 any type of damages in this case that are other than</p> <p>21 non-economic damages not enumerated in the breakout</p> <p>22 list in Question 25?</p> <p>23 MR. GILLIAM: We are sitting here</p> <p>24 pondering that, making sure that there are not -- I</p> <p>25 think -- I don't think there are. I think that's</p>	<p style="text-align: right;">Page 1980</p> <p>1 it.</p> <p>2 THE COURT: All right. So I'm going to</p> <p>3 make this conforming change. I will do it on this</p> <p>4 screen, show y'all my work, and then I will go back</p> <p>5 and do it on the Union.</p> <p>6 So here is how 25 looks now.</p> <p>7 MR. GILLIAM: No objections from</p> <p>8 Plaintiff.</p> <p>9 MR. MORRIS: None from Southwest.</p> <p>10 THE COURT: Okay. Then I will go find --</p> <p>11 so it is Question 14. Now Question 14 has the</p> <p>12 conforming changes.</p> <p>13 MR. GILLIAM: No objections from Carter.</p> <p>14 THE COURT: All right. So let's go back</p> <p>15 to 25. We fixed 25.</p> <p>16 Now 26. Punitives, Southwest, Title VII.</p> <p>17 MR. MORRIS: Your Honor, we object</p> <p>18 because, one, we think this question is duplicative.</p> <p>19 It is also 27.</p> <p>20 THE COURT: So I thought 26 was the</p> <p>21 predicate to 27. "Do you find that the legal test</p> <p>22 was met for avoiding punitives" in 26, and in 27,</p> <p>23 what dollar amount.</p> <p>24 MR. MORRIS: I apologize.</p> <p>25 MR. GREENFIELD: It is the same thing I</p>
<p style="text-align: right;">Page 1981</p> <p>1 did. Don't worry.</p> <p>2 THE COURT: No, it's fine. At this point</p> <p>3 they are all running together with me too. So maybe</p> <p>4 one of us can see straight at this point.</p> <p>5 MR. MORRIS: I guess the only thing I</p> <p>6 would say is this deviates a bit from the pattern</p> <p>7 instruction about violating Ms. Carter's religious</p> <p>8 rights. I think that's kind of incomplete and</p> <p>9 confusing. I think we should just stick to the</p> <p>10 pattern.</p> <p>11 THE COURT: What was the pattern? Do you</p> <p>12 have that language handy?</p> <p>13 MR. MORRIS: It just says, "Do you find</p> <p>14 that the plaintiff should be awarded punitive</p> <p>15 damages?"</p> <p>16 Maybe we could just say "for her Title VII</p> <p>17 claims," if we need that clarification.</p> <p>18 THE COURT: Any objection to changing to</p> <p>19 punitives under Title VII?</p> <p>20 MR. GILLIAM: Just I think making it</p> <p>21 specific to what she can get punitive damages for.</p> <p>22 MR. HILL: A jury isn't necessarily going</p> <p>23 to know what Title VII -- I know it's all in the</p> <p>24 instructions, but it's just a lot cleaner for them</p> <p>25 if they understand, this is the one related to</p>	<p style="text-align: right;">Page 1982</p> <p>1 religion.</p> <p>2 THE COURT: So I see both of your points.</p> <p>3 Right now "religious rights" is wrong</p> <p>4 because it's the first time we've used that phrase,</p> <p>5 right? We could use "religious observances,"</p> <p>6 "practices," and whatever, "exercises." But we</p> <p>7 can't use "religious rights." We can't start</p> <p>8 changing terms on them now.</p> <p>9 So I think at a minimum, we need to do</p> <p>10 that. And the question is, do we drop it at Title</p> <p>11 VII? I see your point on saying what it is. I</p> <p>12 don't have a problem with that as long as we are</p> <p>13 consistent.</p> <p>14 MR. GILLIAM: Observances, beliefs, and</p> <p>15 practices, whichever order. I know we switched up</p> <p>16 the order.</p> <p>17 THE COURT: That's our most common order.</p> <p>18 "Observances, beliefs, or practices"</p> <p>19 appears to be the most common.</p> <p>20 Okay. So I'm going to replace "rights"</p> <p>21 with "observances, beliefs, or practices."</p> <p>22 So the way I currently have it.</p> <p>23 MR. MORRIS: Your Honor, I guess it makes</p> <p>24 it sound like there are sort of multiple categories</p> <p>25 of things in here. I think there is just one thing.</p>

<p style="text-align: right;">Page 1983</p> <p>1 And I think Title VII is used throughout the 2 instruction. 3 I don't know how Southwest violated her 4 observances or violated her rights or violated her 5 religion. I mean, that is not really the claim 6 here. 7 You know, you have one claim that she was 8 terminated for her religious belief; the other one 9 is that she wasn't granted an accommodation to 10 engage in it. So I think this is just not quite 11 accurate. 12 MR. McKEEBY: Something like 13 discriminating against Carter because of her 14 religious beliefs is more -- I think it better 15 relates. Because violating her religious 16 observances makes it sound like they tackled her on 17 her way to church or something. 18 THE COURT: Mr. McKeeby, I can get behind 19 your language for discriminating against Plaintiff 20 Carter's religious observances, beliefs, or 21 practices. I think that makes more sense than 22 violating. 23 MR. GILLIAM: Carter agrees with that. 24 THE COURT: Okay. Let me change the 25 wording up and see what I'm doing.</p>	<p style="text-align: right;">Page 1984</p> <p>1 MR. GREENFIELD: And, your Honor, the same 2 deal. I would just ask for the language to track 3 for consistency's sake. 4 THE COURT: All right. Is that 5 language -- let's see this language first. 6 MR. HILL: Discriminating against 7 Plaintiff Carter for her religious. 8 THE COURT: So you say it's Carter, 9 apostrophe S? 10 MR. HILL: No. You lose the apostrophe S 11 and you say "Discriminating Plaintiff Carter for her 12 religious beliefs and practices." 13 MR. GILLIAM: If you are going to type it 14 out, it probably should be "because of." That's the 15 statutory language. 16 THE COURT: Now are we good? 17 It was wrong when we started, so I think 18 it is right now, but I'm not sure. 19 Okay. So -- 20 MR. GREENFIELD: 15, I believe. 21 THE COURT: 15. That would make sense. 22 Here is how 15 looks now. 23 MR. GILLIAM: It looks like that will 24 carry down through 18, I believe. 25 THE COURT: Yes, you are right. Okay.</p>
<p style="text-align: right;">Page 1985</p> <p>1 MR. GILLIAM: Hate to be the bearer of bad 2 news. 3 THE COURT: One good deed. 4 (Discussion off the record.) 5 MR. PRYOR: Your Honor, may I be excused 6 and allow these two gentlemen to handle this issue 7 very competently without me? 8 THE COURT: You may. 9 MR. PRYOR: Thank you. 10 MR. McKEEBY: I'm getting a similar 11 request from Ms. Jones and the Southwest contingent. 12 I assume that's okay. 13 THE COURT: Yes. The Court finds that 14 anyone who does not wish to be here can leave. I 15 figure that the familiar cast of characters will 16 remain the same. 17 MR. GREENFIELD: We are almost there. 18 THE COURT: Okay. I'm going to show you 19 how 15 through 18 to read. 20 So 15 now has this phrasing. 21 MR. GREENFIELD: It looks good, your 22 Honor. 23 THE COURT: 16. 24 MR. GREENFIELD: It looks good, your 25 Honor.</p>	<p style="text-align: right;">Page 1986</p> <p>1 MR. GILLIAM: No objections from Carter to 2 15 or 16. 3 THE COURT: 17. 4 MR. GREENFIELD: It looks good, your 5 Honor. 6 MR. GILLIAM: No objection. 7 THE COURT: And lastly, 18. 8 MR. GILLIAM: No objection. 9 MR. GREENFIELD: Beautiful. Perfect. 10 Thank you. 11 THE COURT: Okay. Now, where were we? 12 Can y'all tell me what question we were on with 13 Southwest that caused all of that? 14 MR. MORRIS: 25. 15 MR. GREENFIELD: So 26, 27, and 28 should 16 all have the same. 17 THE COURT: So 26 is where it all started. 18 27 has got to change. 19 28 has got to change. 20 Give me one moment. 21 Okay. Do the changes we've just made have 22 an issue? There are multiple Title VII theories 23 that involve punitive damages. One of them is 24 termination, right? For religious exercises, 25 observances, beliefs. But failure to accommodate is</p>

<p style="text-align: right;">Page 1987</p> <p>1 another theory, which is why my law clerk, who is 2 smarter than I am, put the broader term "religious 3 rights" in there. 4 So the question is, can we think of a way 5 to phrase it that doesn't foreclose in the jury's 6 careful attentive mind the accommodation and theory 7 for punitives and Title VII? Make sense? 8 So now let's look at the language again. 9 I have got 29 up. 10 MR. MORRIS: Your Honor, my original 11 proposal was just for violating Title VII, which 12 would incorporate both theories. 13 THE COURT: So you still don't like 14 "religious rights." You still like religious 15 something. 16 MR. GILLIAM: I like the language that you 17 have now, but I understand the issue and the 18 concern. 19 MR. GREENFIELD: Your Honor, as a 20 pragmatist over here, we could just pivot to the 21 pattern jury instructions. 22 MR. HILL: What if it's "What sum of money 23 should be assessed against Defendant Southwest as 24 nominal damages" -- that's predominant. 25 But "for discriminating against Plaintiff</p>	<p style="text-align: right;">Page 1988</p> <p>1 Carter because of her religious observances" -- I'm 2 sorry -- because of -- "for discriminating against 3 Plaintiff Carter because of or failing to 4 accommodate her religious observances, beliefs, or 5 practices under Title VII." 6 THE COURT: Okay. It is even more 7 confusing because the jury is instructed about, with 8 the Union, not just terminate, attempt to terminate, 9 right? Because the Union can't terminate. So the 10 plot thickens even more. 11 What I'm going to suggest doing is going 12 back to the original language. I know you don't 13 like "religious rights." It serves a purpose, but 14 its purpose is not to confine it. It captures 15 everything. 16 So I'm going to go back to "religious 17 rights" for all of these and keep them worded the 18 way they were. 19 And now I will hear your objection -- I 20 will hear both of your objections if you object to 21 "religious rights" being in there instead of just 22 saying "Title VII." 23 MR. MORRIS: Sure. Yes. We object to 24 "religious rights" as being confusing and vague. 25 And also, we also just suggest that the Court adhere</p>
<p style="text-align: right;">Page 1989</p> <p>1 to the pattern, just for the record. 2 THE COURT: Understood. 3 I appreciate that. I will overrule it and 4 stick to the original language, which I will put 5 back in as soon as I leave the bench, and then I 6 will send you a copy of it by email tonight. 7 Okay. So that's -- we've got through 8 Question 29. Are there any other objections to 9 Question 29? 10 MR. GILLIAM: No objections from 11 Plaintiff, your Honor. 12 MR. MORRIS: If we could just, at 28, the 13 pattern instruction doesn't have nominal damages on 14 Title VII. 15 THE COURT: So I guess we can talk through 16 what this would amount to be. If there is any 17 measure of actual damages, then we would not have 18 nominal damages, right? 19 So in my mind, nominal damages will only 20 come in if the jury thinks that there is liability 21 but that she had not proven actual damages. 22 Does everyone have the same understanding 23 of "nominal"? 24 MR. GILLIAM: Yes, your Honor. 25 THE COURT: So I get nominal damages</p>	<p style="text-align: right;">Page 1990</p> <p>1 aren't in the patterns. I don't know that they are 2 anywhere in the patterns for any claim, right? 3 Nominals are when you don't prove damages with 4 certainty. 5 MR. MORRIS: I was saying we could remove 6 it, but I take your point. 7 THE COURT: I mean, I will say this, 8 nominals can also be handed by not sending a 9 question on nominals. And if the jury writes zero, 10 I re-form it to nominals at 1 in post-verdict 11 briefing. I've had a trial where that happened 12 before. 13 But I also have trials where they put in 14 nominals and they put in nominals -- you know, if 15 they awarded \$10,000 on actual and then a dollar on 16 nominals, I wouldn't award the dollar on nominals, 17 right? It is irrelevant at that point. 18 And so I just want to make sure everyone 19 is on the same page on what nominals serve a purpose 20 for, only if actual damages are nothing. 21 MR. GILLIAM: Yes, we agree. 22 THE COURT: Okay. So that's 28. 23 29 -- so we should be at 30. 24 MR. GILLIAM: No objection, your Honor. 25 MR. MORRIS: The only thing, I think this</p>

<p style="text-align: right;">Page 1991</p> <p>1 is similar to our reform earlier about protected 2 activity on the Railway Labor Act versus exercising 3 rights. I think we reformed that in some prior 4 text. 5 THE COURT: We did and then we undid it 6 all, so I'm trying to figure out if there is a 7 variant of it that is -- 8 MR. MORRIS: Okay. Did we? Maybe I've 9 forgotten. I thought we had adopted it. 10 THE COURT: That was Questions 26 through 11 28 as well. But maybe there was a separate question 12 where we just addressed it and not the Title VII 13 issue. 14 I thought it was for discriminating 15 against, but here it is a retaliation question, 16 so -- I thought it was a Title VII discrimination 17 claim we reformed it on earlier, but here I'm not 18 sure the same defect exists. 19 MR. MORRIS: I thought -- we are on 30, 20 correct? 21 THE COURT: Correct. 22 MR. MORRIS: Okay. I may be 23 misremembering, I thought we had changed it to "for 24 engaging in protected activity under the Railway 25 Labor Act" versus exercising her rights.</p>	<p style="text-align: right;">Page 1992</p> <p>1 THE COURT: Does anyone know what question 2 we did that on? 3 MR. MORRIS: I don't. Because I think you 4 changed it in yours. 5 THE COURT: Question 8, I have as, "Has 6 Carter proved Southwest retaliated against Plaintiff 7 Carter for engaging in protected activity by the 8 Railway Labor Act -- for engaging in activity 9 protected by the Railway Labor Act?" 10 MR. MORRIS: Right. I was just saying 11 that would make it consistent with the other 12 questions, that was all. 13 MR. GILLIAM: We don't have any objection 14 to that. 15 MR. GREENFIELD: And then, your Honor, not 16 to be a pain, but for consistency's sake, if we are 17 going to change it here, we should change it in the 18 Union's questions as well. 19 THE COURT: I think it was a Union 20 question we had changed it in, but I will go back 21 and double-check. 22 So we are changing the phrase "for 23 exercising her rights under the Railway Labor Act" 24 to the phrase "for engaging in activity protected by 25 the Railway Labor Act." Correct? To make it</p>
<p style="text-align: right;">Page 1993</p> <p>1 conform to 8? 2 MR. MORRIS: Yes. Whatever is in 8, 3 basically. 4 THE COURT: Here is how it looks. 5 MR. GREENFIELD: That is 21 for the Union. 6 THE COURT: It's 21? 7 MR. GREENFIELD: 22, actually. 8 Both. 9 THE COURT: Okay. Here is how 21 looks 10 like now. 11 MR. GILLIAM: No objection from Carter. 12 THE COURT: And 22 now. 13 MR. GILLIAM: Still no objection from 14 Carter. 15 THE COURT: Is the Union good? 16 MR. GREENFIELD: Yes, your Honor. 17 THE COURT: Okay. Where were we, 18 Question 30? 19 MR. MORRIS: Yes. 20 MR. GILLIAM: We had no other objections 21 to that question. 22 MR. MORRIS: And I think that language 23 about RLA-protected rights carries through to 31 as 24 well. 25 THE COURT: I think you are right.</p>	<p style="text-align: right;">Page 1994</p> <p>1 So 31 now looks like this. 2 MR. GILLIAM: No objection. 3 MR. MORRIS: No objection for Southwest. 4 THE COURT: Okay. Question 32. Front 5 pay, Southwest. 6 MR. GREENFIELD: We just renew our 7 previous objections regarding front pay, your Honor. 8 THE COURT: Sure. But it is against 9 Southwest. 10 MR. GREENFIELD: Oh, I apologize. 11 MR. MORRIS: We make that same objection, 12 your Honor. 13 THE COURT: Awfully charitable of you, Mr. 14 Greenfield. 15 MR. GILLIAM: No objection. 16 THE COURT: So I need to put my advisory 17 caveat in front of this. 18 Here is how 32 looks now with the caveat. 19 "Advice" spelled correctly, Mr. Hill? 20 MR. HILL: It is indeed, your Honor. 21 THE COURT: Okay. So 32. I will overrule 22 that objection from Southwest, but I'm putting in 23 the advisory condition. 24 33, mitigation. 25 MR. GILLIAM: No objections.</p>

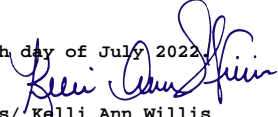
<p style="text-align: right;">Page 1995</p> <p>1 MR. MORRIS: No objection, your Honor.</p> <p>2 MR. GREENFIELD: None here, your Honor.</p> <p>3 THE COURT: All right. And then 34?</p> <p>4 MR. MORRIS: Your Honor, we would just</p> <p>5 raise our objection that we don't have to show that</p> <p>6 Ms. Carter would have earned anything if she ceased</p> <p>7 looking for employment, that the damages should be</p> <p>8 cut off from the day she did that.</p> <p>9 THE COURT: I understand that objection.</p> <p>10 I will overrule that.</p> <p>11 MR. GREENFIELD: The Union echos that</p> <p>12 sentiment.</p> <p>13 THE COURT: Understood.</p> <p>14 I will overrule that as well.</p> <p>15 MR. GILLIAM: No objections from Carter.</p> <p>16 THE COURT: All right. So I now need to</p> <p>17 go back and undo the changes that I did to those</p> <p>18 prior questions where we got caught in a tailspin</p> <p>19 and I didn't see the forest through the trees.</p> <p>20 So then we need to send y'all a clean copy</p> <p>21 tonight that you can see. We will print it off</p> <p>22 tonight. Look at it. If there is, like, a</p> <p>23 scrivener's error or something that you think is</p> <p>24 inconsistent with how I ruled, let me know as soon</p> <p>25 as you can.</p>	<p style="text-align: right;">Page 1996</p> <p>1 Because, for example, if we get here at --</p> <p>2 I will ask for 8:45 tomorrow. I won't ask for 8:30</p> <p>3 because we don't have plenty to cover tomorrow.</p> <p>4 But if you've got some sort of error that</p> <p>5 you found in the charge, not an argument of yours</p> <p>6 that I have overruled, but like I did something</p> <p>7 wrong based on what I told you I was doing, please</p> <p>8 let us know by email because these things take</p> <p>9 forever to print. And if we print something, it may</p> <p>10 have a cascading effect.</p> <p>11 So please let us know by email if there is</p> <p>12 something you think we've missed. Hopefully, we</p> <p>13 will be able to swap out a page and not have to</p> <p>14 reprint the whole thing. But then I will try to</p> <p>15 read it at 9, and then we will roll into closing,</p> <p>16 closing, closing.</p> <p>17 Make sense?</p> <p>18 Again, I guess I need to figure out</p> <p>19 tomorrow on closing if they are saving a small</p> <p>20 modicum of minutes for the final word, right?</p> <p>21 MR. HILL: We are indeed.</p> <p>22 THE COURT: How many, do you know? I</p> <p>23 should have asked Mr. Pryor before he left.</p> <p>24 MR. HILL: Mr. Pryor will have a better</p> <p>25 sense of that in the morning.</p>
<p style="text-align: right;">Page 1997</p> <p>1 THE COURT: Yes. So I will tell you, in</p> <p>2 the past, what I've done is I've let -- people tend</p> <p>3 to reserve up to 10 minutes. People who have asked</p> <p>4 for more, I initially used to let go, and then</p> <p>5 they'd have new arguments they bring in a rebuttal,</p> <p>6 and then we've got to unwind it and I give more time</p> <p>7 to rebut the new information that came in.</p> <p>8 So 10 minutes, I'm perfectly comfortable</p> <p>9 with saving that time out of closing for the final</p> <p>10 word.</p> <p>11 I'll just reiterate, and if y'all can tell</p> <p>12 Mr. Pryor, if you can save your objections for the</p> <p>13 end of that argument, unless someone has blown</p> <p>14 through a motion in limine, right? Stand up, look</p> <p>15 at me, I will call a sidebar.</p> <p>16 Otherwise, save your objections for the</p> <p>17 end. I will call a sidebar after everyone is</p> <p>18 closing and see if there is anything we need to</p> <p>19 address.</p> <p>20 Other than that, any questions?</p> <p>21 MR. GILLIAM: No questions here.</p> <p>22 THE COURT: I'm really glad I listened to</p> <p>23 you, Mr. McKeeby, on not keeping the jury here,</p> <p>24 because that would have been bad.</p> <p>25 MR. McKEEBY: You can answer a question</p>	<p style="text-align: right;">Page 1998</p> <p>1 that I have, and that is when is the one time that a</p> <p>2 photograph is not hearsay?</p> <p>3 THE COURT: The one time a photograph --</p> <p>4 MR. McKEEBY: Or is hearsay, I guess.</p> <p>5 THE COURT: The one time a photograph is</p> <p>6 hearsay is when a criminal defendant is accused of a</p> <p>7 scheme involving withdrawing funds and there is a</p> <p>8 photograph of them withdrawing funds at Western</p> <p>9 Union. It is the proof of the matter asserted that</p> <p>10 they were withdrawing funds. But it's also a</p> <p>11 statement of the party, a party admission.</p> <p>12 And so it is a hearsay exception, while</p> <p>13 hearsay all at the same time.</p> <p>14 I have had that happen before.</p> <p>15 No, that was you in the Western Union</p> <p>16 video. So it stays out under hearsay, it comes back</p> <p>17 in under party statement.</p> <p>18 Okay. Any other questions?</p> <p>19 All right. I will see y'all tomorrow at</p> <p>20 8:45, not 8:30. Good luck getting your closing</p> <p>21 materials together tonight, and we will finish</p> <p>22 strong and give it to the jury tomorrow.</p> <p>23 All right. Court is in recess.</p> <p>24 THE COURT SECURITY OFFICER: All rise.</p> <p>25 (Proceedings adjourned at 5:32 p.m.)</p>

C E R T I F I C A T E

I, Kelli Ann Willis, RPR, CRR, CSR
certify that the foregoing is a transcript from the
record of the proceedings in the foregoing entitled
matter.

I further certify that the transcript
fees format comply with those prescribed by the
Court and the Judicial Conference of the United
States.

This 13th day of July 2022,


s/ Kelli Ann Willis

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